BACKGROUND ON THE 1961 TERMINATION OF THE MIXED-BLOOD UTES
OF THE UINTA AND OURAY RESERVATION, UTAH
PREFACE

Termination of the so-called "Mixed-Blood Ute'" of the Ute Indian Tribe of the Uinta Valley & Ouray Reservations in Utah, was initiated under the pretext of Public Law 83-671 (68 Stat. 868) August 27, 1954. An administrative act of the Secretary of the Interior by authority granted to him in Public Law 120 (65 Stat. 193) August 21, 1951, *The Southern Ute Rehabilitation Planning Act"* in which he would approve two Ute "plans" toward termination of the Confederated Ute Bands required by Congress, before it would appropriate the Judgment Funds the Colorado Ute Indians had just won (1950) in the Court of Claims. The Confederated Band of Ute Indians of Colorado Territory submitted the two "plans" that would purportedly terminate the members of the Colorado Ute Tribe by 1964. The long-range plan however was issued and submitted as Public Law 83-671; An Act purported to divide the members and all tribal assets of the IRA Federal Corporation "*Ute Indian Tribe,"* a federally recognized Tribe between the so-called Mixed-blood and Full-blood Ute Indians thereof and terminate the Mixed-bloods.

The following is a background and history of the 1951 "Ute" termination legislation and how the Uinta Valley Shoshone Bands' of Utah Indians *(Uinta Band)* and their entire "Uinta Valley" tribal estate was "bootstrapped" to the "Ute" termination by nefarious Resolution No. 3 (*share and share alike resolution)* that was inserted into the Bill by Utah Senators and Attorneys (John Boyden and Ernest Wilkerson) while the Bill was in Committee and was inserted without the knowledge or approval of the Indians.

No one has ever conducted a study on the effects of termination on the Uinta Valley Shoshone Indians in northeastern Utah. It is as though these people just dropped off the face of the earth after 1954 regardless that they do exist as an Indian Tribe. No court, State or Federal has ever addressed or investigated the devastating economic, social, psychological, or cultural effect this Act has had on said Uinta Valley Band of Utah Shoshone Indians and neither does this document address these issues.

This material covers snap shots in time that looks at the history of the Uinta Valley Shoshone Bands of Utah Indians who actually came to occupy the Uinta Valley Reserve, located in northeastern Utah, after it was created in 1861. These particular inhabitants are collectively identified by a geographical name; "Uinta", taken from the name of the reservation by early Indian Agents and others. The Uinta Valley Shoshone Bands' are not to be confused with the Colorado "Uintah" Ute's whose name is spelled differently for a very specific and historically correct reason. ("Uinta" denotes the Shoshone Bands of Utah Indians; "h" at the end of the word (Uintah) denotes the Confederated Band of Ute Indians of Colorado … *identity and labels matter*.)

* * *

THE UINTA VALLEY BANDS' OF UTAH INDIANS

December 1, 2010

POSITION PAPER

BACKGROUND AND HISTORY

1800: Shoshone Country.

The Shoshone Nation is the leading tribe that occupied the country along the eastern slope of the Rocky Mountains and westward to include the region of Utah Territory and what are now Western Wyoming, Montana, Utah, Southern Idaho, Northeastern Nevada and Eastern Oregon. The Shoshone people occupied this territory long before it was invaded by the Mormons in1847 and long before it was ceded by Mexico to the United States in 1849 under the Treaty of Guadalupe Hidalgo.

1847: Brigham Young And His Mormon Followers Enter The Salt Lake Valley.

In 1847, Brigham Young led the first of his Mormon followers to the Salt Lake Valley located in the Great Basin … claimed by the Republic of Mexico. The Republic of Mexico held ceded territorial rights to the entire region as far northward as the Great Salt Lake, westward to the Coast and eastward to the summit of the Rocky Mountains.

1848: Mexico Cedes Lands To The United States.

The United States and Mexico went to war over the territorial rights to the western region of the United States. The dispute that ensued resulted in the American-Mexican War of 1848. Mexico was defeated and the United States took possession of the empire pursuant to the Treaty of Guadalupe Hidalgo.

"However, this acquisition does not necessarily mean that title has passed on the acquired rights which are owing to the Indians of the region as to their own procurement, as sovereign Nations, and rights of property including "taking" by devise." *U. S. v. Merriam,* 263 U.S. 179, 44 S. Ct. 69, 70, 68 L. Ed. 240.

The Uinta Valley Shoshone Indians of Utah are erroneously referred to by Utah's Mormon attorneys throughout the Court of Claims litigation as "Ute" regardless that all the surrounding history is clear that the original "Uinta Band" Indians to settle on the Uinta Valley Reservation in Utah is Snake or Shoshone Indians by origin who were pushed out of the Salt Lake Valley by Brigham Young and the Mormon settlers after 1850.

This error in identification is partly responsible for the "bootstrapping" scheme carried out in 1951 that implies the Uinta Valley Shoshone Indians of the Uinta & Ouray

Reservations in Utah were somehow "Ute" and they were a part of the Confederated Band of Ute Indians of Colorado. The Claims Commission found this not to be the case.

The identity of the various Snake or Shoshone Bands who migrated to the Uinta Valley Reservation after 1861 is found in the documentary evidence presented Before the Indian Claims Commission; *The Uinta Ute Indians of Utah vs. The United States of America*, decided February 21, 1957, Docket 44 which was consolidated for hearing with Docket 45 for purposes of documentary evidence; Findings of Fact provides in part:

The Uinta River Valley Reservation was established in 1861 for the purpose of keeping the Mormons out of the Uinta River Valley. With the westward expansion, there was considerable demand for the extinguishment of Indian Title in Utah. (The Uinta Band has sufficiently proven to the Court, it holds "Indian Title" to over six million acres of land crossing the Salt Lake Valley in Utah to the Nevada border) This demand culminated in the Act of Congress (13 Stat. 432), authorizing the negotiation of the "Spanish Fork Treaty" of June 1865. Under the terms of that treaty the Indians who were parties thereto gave up a defined area which included the land presently claimed and much more; Utah Territory then being considerably larger than the present State. In return, the Uinta River Valley Reservation previously established in 1861 was again reserved to the Indians who were parties to the 1865 Treaty.

The Uinta Band of Utah Shoshone Indians included all Shoshone or Snake Bands of Pah-Vant, San-Pitch, Tim-pa-noys, Cummun-bah, Tumpanawach, Utahs, and Uinta Yampah (not to be confused with the Colorado Uintah Yampah Utes who are separated by legal and territorial boundaries) were parties to the Spanish Fork Treaty of 1865.

The Commission found that the "Uinta Band" of Utah Indians were <u>not</u> parties to the Treaty of March 2, 1868 (15 Stat. 619) that established the Reservation in Colorado for the Confederated Band of Ute Indians or to the Brunot Agreement of 1873, and that the "Uinta Band" of Utah Indians were a separate and distinct group from the Indians of Colorado who came to be known as the Grand River, Yampah, and Uintah Bands, and eventually as the "White River Utes".

For purposes of this document and for clarity of history, the "White River Band" is not of Ute origin either. But rather are a mixture of Shoshone, Cheyenne, and Arapaho Indians. The historic Yamparika and Parianuche Indians is the "White River Band" that has lived on the Uinta Valley Reservation in Utah since 1880 with the Uinta Band of Utah Shoshone Indians. The White River Band is closely related to the Shoshone Indians living on the Washakie Reservation in Wyoming. These historical facts are the legacy of the Great Shoshone Nation that occupied the vast territory under Mexican rule before 1848 when the United States acquired the Empire from Mexico.

The historic "Ute Indians" of Colorado are the Sheberetch (White Mesa Utes); Taviwach (Uncompahgre Utes); Weeminuche, Kapota (Southern Utes); and Moache (Ute Mountain Utes). These bands stayed south around the Four Corners area of both Utah and Colorado Territory in southern Utah, Colorado, New Mexico, and Arizona and never ventured further north into Shoshone Country than the lower south-side of the White

River for game hunting purposes. The Uinta Valley Indians of Utah, the White Rivers of Colorado, and the Utes of Colorado had separate Agencies indicating that they were recognized by the U.S. Government as separate and distinct tribes from one another.

Article II of the May 5, 1864 Act (13 Stat. 63), wherein Congress confirmed the Uinta River Valley as a permanent reservation for those Indians of Utah Territory induced to inhabit the same, it states: "It is however understood that should the President of the United States hereafter see fit to place upon the reservation, any other friendly tribe or bands of Indians of Utah Territory, to occupy the same in common with those above mentioned, he shall be at liberty to do so. This provision does not at any time apply to the White River or Uncompahgre Ute bands of Colorado. (Emphasis added)

The Court held that the White River Indians was moved to the Uinta Valley Reservation without the prior knowledge or consent of the Uinta Band. The Uinta Band was not a party to the 1880 Agreement and they did not consent to the settlement or allotment of the White River Indians on the Uinta Valley Reservation. (Pl. Exs. 284; 292, p. 201) The Uncompahgre Utes had a separate Agency at Ouray on the Ouray Reservation in 1880-84 when they were subsequently moved onto the Uinta Valley Reservation where both are located today calling themselves the "Northern Ute Tribe".

1849: Peace Treaty with Ute Indians-Albuequerque, NM (9 Stat. 984) Treaties 163-165.

All the Ute Indians' within the territory ceded by Mexico were included in this peace treaty. It did not apparently deal with the Uinta Valley Shoshone Indians in Utah. No reservation or land ownership was created but the treaty recognized the Indians' right to occupy certain lands within the area that later became the territories of Colorado, New Mexico and Utah. Specific boundaries are not described and were to be determined in the future. This treaty was ratified by Congress on 09/09/1850. By this treaty the "Uta" or "Ute" Indians acknowledge themselves under jurisdiction of the United States. United States agree at an early date to fix boundaries of "Uta" Country.

1850-51: Utah Territory Is Created And Brigham Young Is Appointed Governor.

Utah Territory in 1850 encompassed the area that is now the states of Nevada, Utah, the southwest corner of Wyoming, and 1/3rd of western Colorado.

By proclamation, the first Governor of Utah Territory, Brigham Young, divided the Utah territory into three Agencies; the "Uinta Agency" to include all Shoshone or Snake Bands of Pah-Vant, San-Pitch, Tim-pa-noys, Cummum-bah, Tumpanawach, Utahs, and the Uinta Yampa (not to be confused with the Colorado Uintah Yampa) and other fragments of bands and family clans of Utah Territory Shoshone Indians (a.k.a. the "*Uinta Band")*. The Uinta Band is not ethnically identified as Shoshone Indians after 1861. These native people were pushed south within said territory and east of the eastern rim of the Great Basin in what is now the area located in the Eastern half of the State of Utah that includes the Ashley Valley (where the Uinta Yampa lived) within the Uinta Basin that adjoins the western border of the State of Colorado and runs 60 miles inward

to the banks of the Green River. A large portion of this designation was set apart as the Uinta Valley Reserve in 1861.

1857: Utah War:

The Utah War was an armed confrontation between Latter-day Saint settlers in Utah Territory and the armed forces of the United States Government. The confrontation lasted from May 1857 until July 1858. As a result, Brigham Young was replaced as governor of the territory. A full pardon for charges of sedition and treason issued to the citizens of Utah Territory by President James Buchanan on the condition that they accept U.S. Federal authority.

1861: Utah Territory Is Partitioned; The Uinta Valley Reserve Is Created.

Colorado Territory was subsequently partitioned from Utah Territory as was Nevada Territory and Nebraska Territory by mid-1861.

The entire Valley of the Uinta River in the (northeastern) Territory of Utah ("as yet unoccupied by settlement of our citizens") was reserved to the United States and set apart as an Indian reservation. The *"Uinta Valley Reserve"* was set apart and reserved by Presidential Executive Order 38-1 *"for the permanent settlement and exclusive occupancy of the tribes of Utah Territory"* on October 3, 1861 by President Abraham Lincoln. The Snake or Shoshone Bands of family clans are historically referred to as the *Utah Indians* that had been pushed east out of the Salt Lake Valley by Brigham Young's proclamation and his Mormon settlers. The Uinta Valley Reserve was confirmed by Congress (13 Stat. 63) May 5, 1864. After 1861 the Utah Indians are collectively referred to as "Uinta" a geographic location name given to them by Indian Agents of the time.

The Confederated Band of Ute Indians is officially located in Colorado Territory at the point of territorial partitioning.

1868: Reservation And Treaty With The Ute Indians, Colorado Territory.

The Act of March 2, 1868 (15 Stat. 619) established a reservation of about 15 million acres *"for the absolute and undisturbed use and occupancy"* of the Tabequache, Muache, Capote, Weeminuche, Yampah, Grand River and Colorado Uintah Bands of Ute Indians. Two agencies were established on the reservation: one on the White River for the Yampah, Grand River and Uintah Bands (distinct from the Shoshone bands in Utah also called Uinta); and one on the Rio de los Pinos for the Sherberetch, Tabequache, Muache, Weeminuche and Capote Bands. These seven historic Bands are identified individually, today, as the White River Band, Uncompahgre Ute Band, Ute Mountain Ute Band, the White Mesa Ute Band and Southern Ute Band; collectively the "*Confederated Ute Indian Tribe"* of Colorado Territory.

1879: The White River Indians Kill Indian Agent, Meeker, In Colorado Territory.

The White Rivers attacked the Agency established on the White River in Colorado Territory and killed the Indian Agent Nathan C. Meeker. This incident enraged the Colorado Senators, settlers, and prospectors who applied political pressure that caused the United States to withdraw the Tribe's claims to the 15 million acre reservation and the subsequent expulsion of the White River Band and the Uncompahgre Ute Band from their historic homelands in Colorado Territory and relocated them "temporarily" to Utah Territory until suitable land was found in Colorado for them to settle upon permanently.

1880: Ute Land Taken By The United States; Ute's Temporarily Moved To Utah.

The 1880 Agreement between the United States and the Ute Tribe was intended to terminate the reservation and break up the confederated Ute Band, "as a Tribe." The Colorado Ute's agreed to cede all their reservation land in Colorado to the United States and take only allotments in exchange. When sufficient lands were not found in Colorado for allotments the White Rivers and Uncompahgre Utes were expelled from Colorado Territory, in contrast to the 1880 Agreement, and relocated to Utah Territory. The White Rivers (who are a mixture of Shoshone and Arapaho/Cheyenne origin) was placed directly with the "Uinta" bands' of Shoshone Indians on the Uinta Valley Reserve.

The Uncompahgre Utes were moved to aboriginal lands claimed by the Uinta Bands' located south and adjacent to the Uinta Reserve in Utah Territory. Said land had been set apart by Executive Order of President Chester A. Arthur for the Uncompahgre Bands' use and occupancy, but not ownership. Except for the allotments, they were left in Utah as landless people subject to Shoshone (Uinta) Band jurisdiction in Indian Country; The Ouray Reserve was never ratified by Congress. The Uncompahgre Utes took allotments on the Ouray Reserve and also purchased allotments, like the White Rivers, from the members of the Uinta Bands' by agreement pursuant to the General Allotment Act of 02/08/1887, (Dawes Act, 24 Stat. 388).

1886: Indian Agencies Consolidated.

The Uncompahgre Ute Band was moved to the Uinta Reservation in 1884 and the Uinta Valley and Ouray Agencies were consolidated in 1886; the Agencies Headquarters was moved to Fort Duchesne where it remains today. The two reservations soon became deceivingly referred to as the Uintah (wrong spelling) and Ouray Reservation. (Singular form)

1890: Mormon Church v. United States, 136 U. S. 1 (1890)

The Church of the Mormons, or, as they call themselves the Church of Jesus Christ of Latter-day Saints was first organized as a corporation under an act of assembly of the provisional government which they set up in Utah under the name of the State of Deseret. The act was dated February 8, 1851, and was in the usual form of acts of incorporation. To wit, by an act of assembly of the so-called State of Deseret, which was afterwards confirmed by act of the Territorial Legislature of Utah, the corporation being a religious one, and its property and fund, held for the religious and charitable objects of the society,

a prominent object being the promotion and practice of polygamy, which was prohibited by the laws of the United States. Congress, in 1887, passed an act repealing the act of incorporation and abrogating the charter and directing legal proceedings for seizing its property and winding up its affairs. The U. S. Supreme Court stating: "Congress, as the supreme legislature of Utah, had full power and authority to direct the winding up of the affairs of the Church of Jesus Christ of Latter-day Saints as a defunct corporation. The pretense of religious belief cannot deprive Congress of the power to prohibit polygamy and all other open offenses against the enlightened sentiment of mankind. This act shall be so limited and construed as not to affect or interfere with the right of property legally acquired, nor with the right 'to worship God according to the dictates of conscience,' but only to annul all acts and laws which establish, maintain, protect or countenance the practice of polygamy, evasively called spiritual marriage, however disguised by legal or ecclesiastical solemnities, sacraments, ceremonies, consecrations or other contrivances."

1894: Utah's Enabling Act for Statehood.

This Act was accepted by Utah's constituents and approved by the United States Government, July 16, 1894, to enable the People of Utah to form a Constitution and State Government, and to be admitted into the Union on an equal footing with the original States. The State of Utah, by accepting this Act, relinquished all rights, title, and interest in the Federal Public Lands lying within the State except for four (4) sections of un-appropriated federally held public land in every township of said proposed State for the support of common schools, *provided*, that the aforesaid sections embraced in permanent reservations; any land embraced in Indian, military, or other reservations of any character for national purposes shall not, at any time be subject to the grants nor to the indemnity provisions of this Act until the reservation shall be extinguished and such lands be restored to and become a part of the public domain.

1896: Utah Becomes A State of the Union By Presidential Proclamation.

The Utah Constitution was ratified on November 5, 1895. On January 4, 1896 a Proclamation of the President of the United States was issued admitting Utah to the Union. Statehood required agreement to certain stipulations for entry.

THE UTAH CONSTITUTION: ARTICLE III - ORDINANCE.

"The following ordinance shall be irrevocable without the consent of the United States and the people of this State":

"The people inhabiting this State do affirm and declare that they forever disclaim all right and title to the un-appropriated public lands lying within the boundaries hereof, and all lands lying within said limits owned or held by any Indian or Indian Tribes, and that until the 'title' thereto shall have been extinguished by the United States, the same shall be and remain subject to the disposition of the United States, and said Indian lands shall remain under the 'absolute' jurisdiction and control of the Congress of the United States." (Emphasis added)

"Nothing in this ordinance shall preclude this state from taxing, as other lands are taxed, any lands owned or held by any Indian who has severed his tribal relations, and has obtained from the United States or from any person, by patent or other grant, a 'title' thereto, save and except such lands as have been or may be granted to any Indian or Indians under any act of Congress, containing a provision exempting the lands thus granted from taxation, which last mentioned lands shall be exempt from taxation so long, and to such extent, as is or may be provided in the Act of Congress granting the same."

The chartered Corporation *"Ute Indian Tribe"* of the Uinta Valley and Ouray Reservations in Utah is not now and has never been a 280 Tribe by operation of law.

1923: Corporation of the President of the Church of Jesus Christ of Latter-day Saints.

The "COP", as it refers to itself, is a "*shadow government"* to state government in Utah and is a corporation sole that was created under state law (chapter 3, Title 19, of the Compiled Laws of Utah, 1917, on "Churches and Religious Societies") by the President of the LDS Church, Heber J. Grant, on the 26th day of November 1923. The COP is a 'Holding Company' formed to control other companies where it usually confined it role to supervising management and operates in a duel role as an 'Investment Company' formed to acquire and manage a portfolio of diverse assets by owning stock and investing money collected from different sources e.g., the many community-based LDS Church corporations.

A corporation sole consists of one person only, and his successors in some particular station, who are incorporated by law in order to give them some legal capacities and advantages, particularly that of perpetuity, which in their natural persons they could not have had. No state in America recognizes a corporation sole as a *canon law entity*. If recognized at all, they are only recognized as civil law entities. Under the Internal Revenue Code the central organization (COP) and its subordinates (LDS Churches) must have a defined relationship and be subject to the central organization's general supervision or control; and exempt under the same paragraph of the IRC 501 (c), though not necessarily the paragraph under which the central organization is exempt.

1910: Confederated Band Of Ute Indians Initiate First Lawsuits Against United States.

The Confederated Band of Ute Indian allottees of Colorado and now also of Utah initiated its first lawsuit against the United States seeking an accounting for the ceded property in Colorado. This was followed by a series of lawsuits by the Confederated Band of Ute Indians in the Court of Claims against the United States seeking to be paid for the lands taken by the United States under said agreement in 1880.

1934: The Shoshone Bands' And Two Former Colorado Ute Bands Adopt The IRA.

The Indian Reorganization Act (IRA), (48 Stat. 984) was passed into law in 1934 and offered federal recognition to any organized tribe(s) that adopted the Act and

organized as a Federal Corporation, under pressure the Uinta Valley Shoshone Bands' of Utah Indians, and the individual allottees of the White River Band and the Uncompahgre Ute Band formerly of Colorado, as separate political bodies, were coerced into adopting the Indian Reorganization Act and were deceivingly organized as an IRA Corporation under a misnomer, the *"Ute Indian Tribe"* of the Uintah and Ouray Reservation, Utah (Hereinafter, "chartered Corporation").

Despite all else to the contrary, the Uinta Shoshone Tribe today, is the Treaty Tribe of the U & O Reservations and remains the only lawfully organized charter members of the IRA Federal Corporation, wherein, the Shoshone Tribe, by adopting the 1937 IRA Constitution and 1938 Charter had to place its whole government, its entire Treaty Estate, constitution and all, under the absolute control of the Secretary of the Interior where the treaty assets are held in perpetual trust status and the "Title" to such is held by the United States as Trustee.

A side effect of the IRA; (beyond the misnomer "Ute Indian Tribe") when the tribal rolls were created, other Indians from other tribes living on or near the reservations under a Federal Indian Work Force Program in operation at that time, were also listed as members of the tribe whether they legitimately belonged or not. Several of these people were listed as "Uinta" on the Final Mixed-blood Roll of the Ute Indian Tribe in 1956. They never were Uinta Valley Shoshone Indians or Ute Indians from Colorado by origin and after 1954, many of these Indians took their family and changed jurisdiction by enrolling in their tribe of origin thus seemingly avoiding a pending termination in 1961.

The Constitution and Bylaws of the Federal Corporation d/b/a the "Ute Indian Tribe" of the Uinta and Ouray Reservations, Utah, is the organic law. It was adopted and approved on January 12, 1937. The Charter of the "Ute Indian Tribe" of the Uinta and Ouray Reservations, Utah, provides the sovereign powers granted by the United States to the "Tribe" (chartered Corporation) for commercial purposes in the development of the Reservations' economic resources and was approved on July 6, 1938.

The "*Congress"* for these three separate tribes was never established in 1938 so the Business Committee has always operated as the exclusive administrative body over <u>both</u> the Constitutional and Chartered functions of the chartered Corporation, "Ute Indian Tribe."

The management body called the "Business Committee" consisted of 2 elected members from each band intended to represent their particular band's interests in the natural resources development activities on the individual allotted land of the Ute Indians and the allotted and tribal lands of the Uinta Band operating under the same umbrella of the chartered Corporation and to manage and disperse any beneficial interests (trust funds) derived there from.

1945: <u>Uinta Valley And Ouray Reservations, Utah – Order of Restoration.</u>

"Whereas, pursuant to the provisions of the Act of May 27, 1902 (32 Stat. 263) as amended, the un-allotted lands of the Uintah and Ouray Indian Reservation in the State of Utah, were made subject to disposal under the laws of the United States applying to public lands, and

Whereas, there are now remaining un-disposed of within said area approximately 217,000 acres of un-allotted lands, which need closer administrative control in the interest of better conservation practices, and

Whereas, by relinquishment and cancellation of homestead entries within this area a limited additional acreage of land of similar character may later be included within this class of un-disposed-of opened land, and

Whereas, the Tribal Council, the Superintendent of the Uinta and Ouray Agency, and the Commissioner of Indian Affairs have recommended restoration to tribal ownership of such un-disposed–of surplus un-allotted lands in the said reservation."

"Now, therefore, by virtue of the authority vested in the Secretary of the Interior by section 3 and 7 of the Act of June 18, 1934 (48 Stat. 984), I hereby find that restoration to tribal ownership of all lands which are now or may hereafter be classified as un-disposed-of opened lands of the Uinta and Ouray Reservation will be in the public interest, and the said lands are hereby restored to tribal ownership for the use and benefit of the d/b/a the "Ute Indian Tribe" a Federal Corporation of the Uinta and Ouray Reservation in Utah, and are added to and made a part of the existing reservation, subject to any valid existing rights. Signed; Harold Ickes, Secretary of the Interior. (August 25, 1945)

1950: The Confederated Band of Ute Indians Win Their Cases in the Court of Claims.

The Confederated Band of Ute Indians of Colorado and Utah win their claims in the Court of Claims and receive a Judgment. The Uinta Valley Bands of Shoshone (Uinta') Indians file a disclaimer with the Court of Claims saying they have no interest in the Ute judgment funds. (S. 1357)

The *Confederated Band of Ute Indians* consisting of White Rivers and Uncompahgre Utes in Utah and the Southern Utes and Ute Mountain Utes in Colorado had to submit a "Plan" to Congress outlining a program for their rehabilitation and emancipation along with a plan for the division, distribution and use of said Judgment Funds before said funds would be approved and appropriated by Congress and before the Court of Claims could release the Judgment.

1951: The Confederated Bands of Ute Indians' Termination Legislation.

The "Plan" submitted to Congress proposed a 3-year program ending in 1954 and a 10-year preparation program toward termination of the Confederated Ute Tribe to be approved by the Secretary of the Interior that would begin in 1954 and end with the Confederated Ute Tribe's termination from federal supervision in 1964.

A fraudulent amendment was inserted into the pending "Ute Termination Legislation" by Mormon lawyers, John Boyden and Ernest Wilkerson who recognized an opportunity and seized upon it for political and monitory gain and deliberately "bootstrapped" the Uinta Valley Shoshone Bands and their tribal assets to the Ute termination program by Resolution No. 3, referred to as John Boyden and Ernest Wilkinson's *"Share and Share Alike,"* Resolution proposed to the Southern Utes, White Rivers and Uncompahgre Utes in May and June of 1950 purportedly to derail Utah Senator Arthur V. Watkins' intent to terminate the entire confederated Ute Tribe by this legislation.

"The meeting was called by Boyden and Wilkinson. The Uinta Valley Bands of Shoshone (Uinta') Indians was neither invited nor given notice. Wilkinson represented that the Uinta Bands' had already voted to adopt his proposed "share and share alike" resolution but, there is no record of a separate meeting by the Uinta Bands." [See: The Dispossessed, by Parker Nielson, University of Oklahoma Press, 1998: 40-42.]

Without the consent or knowledge of the Uinta Valley Shoshone (Uinta) Bands, the nefarious resolution purports an agreement implying the three bands held an equal interest in lands and assets of the reservations that is not a historic or material fact. By this resolution the Utes' would also be granted an interest in the 'proceeds' collected from their allotments and from Uinta tribal lands on the Uinta Valley and Ouray reserves therefore, the proceeds would be shared equally between the Uinta Valley Shoshone (Uinta') Bands and the Confederated Band of Ute Indians residing in Utah. Regardless that they were being compensated by this legislation for their ceded lands in Colorado, and regardless that they are a landless Tribe and void of any tribal assets (except for allotments) in Colorado/Utah Territory since 1880 by operation of law; and finally, regardless that the Confederated Band of Ute Indians in Colorado/Utah was to be terminated from federal supervision under the pending termination legislation about to be passed into law.

The purported equitable exchange between the "Uinta" Bands of Shoshone Indians and the two Bands of the Confederated Ute Tribe of Colorado/Utah, per this absurd resolution, was a distributive share of the Ute Judgment Funds the "Uinta Band" of Utah Indians had already formally told the Court of Claims, they had no interest. Plus an added bonus for this generosity was termination by Secretarial administrative procedure issued through the 1951 Ute Termination Legislation as the "Ute Partition Act" of 1954, (P.L. 83-671 (68 Stat. 868)) that by its evolution stripped the Uinta Band of Utah Indians of 100.0 % of their Tribal Capital Assets held in trust status under said Act.

The Mormon attorneys were fully aware of this possibility but nevertheless proceeded and subsequently lied to a willing Congress that ultimately passed the confederated Ute termination legislation into law containing the so-called 'share and share alike' resolution as *"The Southern Ute Rehabilitation planning Act"* (Public Law 120 (65 Stat. 193) August 21, 1951 including powers to the Secretary for implementation

of each program proposed, ergo, P.L. 83-671 (68 Stat. 868) August 27, 1954, *The Ute Partition Act* (UPA).

Hereafter, everyone was induced, by nefarious special interest groups in Utah and within the BIA into believing the Shoshone (Uinta') Bands of Utah Indians for whom the Uinta Valley Reserve was created in 1861 (under a disguise as *Uintah Ute')* traded with the Confederated Band of Ute Indians of Colorado, in a one-time exchange for a relatively small amount of money, their entire monitory and economic wealth in land, water, gas, oil, and mineral assets of the Uinta Valley and Ouray Reservations for all time to come. The plan was well orchestrated and very successfully executed through intimidation, financial deprivation, deceit and outright threats.

The enabling resolution No. 3 in 1951 provided the Ute's a "share" in the proceeds derived from the Uinta Valley and Ouray Reservations, however, it did not convey or grant any vested 'treaty' rights, title, or interests held by the "Uinta Band" in the corporeal trust estate represented under the chartered Corporation, "Ute Indian Tribe." Only through the course and evolution of P.L. 83-671 (The Ute Partition Act) was the Confederated Band of Ute Indians in Utah and the State incorporated, Ute Distribution Corporation, enabled by the BIA, not only to take "all" the Tribal Capital Proceeds from the "Uinta Band" of Utah Indians by de facto, but in addition the Secretary also enabled the Confederated Band of Ute Indians to take claim to "all" the land, and assets of the Uinta Valley and Ouray Reservations, including tribal jurisdiction with impunity.

1953: House Concurrent Resolution 108.

In the interim, Federal Policy changed to one of terminating Indian Tribes from federal supervision and in 1953 Congress issued its "New" Indian Policy in House Concurrent Resolution 108, 83rd Congress, adopted on August 1, 1953. Its purpose was to eliminate the reservations and tribal government and turn Indian Affairs over to the States. Indians would become subject to State control and jurisdiction without any Federal support or restrictions. Indian land would no longer be held in trust by the United States Government and would purportedly be fully taxable and alienable, just like non-Indian land in the States. Federal health, education, and general assistance would end. HCR 108 was a statement of policy only, individual Acts of Congress were needed to implement the policy in regard to each *specific* tribe named to be terminated. However, the Uinta Band of Utah Indians was not one of the tribes terminated under HCR 108.

The enabling resolution No. 3 in 1951 did not meet this requirement and did not expressly terminate the Uinta Valley Shoshone (Uinta') Bands, by implication or by de facto language. The Ute termination legislation merely implies the Indians affected are all "Ute Indian" when in fact, only those with ½ or more Ute blood were justifiably classified as Ute Indians under P.L. Law 83-671, and thus, all others with a lesser degree of "Ute blood" or no Ute blood at all, are labeled as "Mixed-Blood Ute's" for purposes of said Act within all subsequent administrative purpose and procedures of the Secretary of the Interior in the course of implementing the confederated Ute termination legislation issued in 1951. Under the circumstances, the Secretary's misguided administrative

process does not make termination a fact of law for the so-called "Mixed-bloods" of the Uinta Valley and Ouray Reservations in Utah. The Ute Termination legislation was in affect nearly three years before House Concurrent Resolution 108 was initiated so it had no effect on the termination of the so-called "mixed-blood Utes" in the 1954 Act.

1954: March 31, 1954, Meeting of the Ute Indian Tribe.

"In order to comply with the new Federal Policy," on March 31, 1954 (approximately 5 months before the UPA was issued in August) the Ute Indian Tribe in General Council assembled adopted a superficial resolution intended to establish the autonomy of both mixed-blood and full-blood group. The Council declared it to be its policy "that the full-bloods hold political jurisdiction and responsibility over the persons and properties of the full-blood group of the Ute Indian Tribe and the mixed-bloods hold political jurisdiction and responsibility over the persons and properties of the mixed-blood group of the Ute Indian Tribe." (The Confederated Ute Indian Tribe)

1954: Public Law 83-671 (68 Stat. 868) *"The Ute Partition and Termination Act".*

When the mandated "long-range" program for the rehabilitation and emancipation of the Confederated Band of Ute Indians of Utah and Colorado was put into effect, the program initiated and approved by the Secretary of the Interior was Public Law 83-671, *"The Ute Partition and Termination Act"* (UPTA), (68 Stat. 868) August 27, 1954.

Purpose: An Act, to partition the lands and assets of the Uinta Valley and Ouray Reservations between the so-called Mixed-blood and Full-blood members of the Ute Indian Tribe. (The UPA implies but does not clearly specify which *"Ute Indian Tribe"* it refers: The chartered Corporation "Ute Indian Tribe" or "The Confederated Ute Indian Tribe of Colorado"). The term is used interchangeably throughout the Act to confuse the reader and implies that all the members involved in the UPA are "Ute's" at least on paper, which they are not, not in any other form, gender, or manner.

To divide all Tribal assets of the chartered Corporation, d/b/a the "Ute Indian Tribe" classified into two categories; those assets deemed to be *"dividable"* property in the form of: "Funds in the United States Treasury and local Banks, Accounts Receivable, and 980,000 acres of land, except sub-surface rights that would remain held in trust" and those Tribal assets deemed to be *"undividable"* that was to remain in trust for both groups in the form of: *"All un-adjudicated or un-liquidated claims against the United States, all gas, oil, and mineral rights of every kind, and all other assets not susceptible to equitable or practicable distribution."* These tribal assets would only be divided in the form of Tribal Capital Proceeds. All *"undivided"* tribal assets were to be jointly managed by the Business Committee and Affiliated Ute Citizens. The Utes to only manage their individually held allotments, not the entire Uinta & Ouray Reservation without the Uinta Band whose jurisdiction is derived from its treaty rights and Executive Order 38-1 (1861) and is essential to all legally bound contracts involving Uinta tribal land and resources.

Under section 10 of the UPTA, the mixed-bloods' purportedly received 27.16186% of the Tribal Capital Proceeds and the same percent of the "Ute" Judgment Funds when paid. Instead of the United States Treasury establishing new accounts, the respective shares plus interest was credited to the Ute Indian Tribe's existing trust fund receipt accounts in the following manner:

147471 – Deposits, Proceeds of Labor, Uinta and Ouray Indians, Utah
147971 – Deposits, interest and accruals on interest, Proceeds of Labor, Uinta and Ouray Indians, Utah
147178 – Deposits, Proceeds of Labor, Affiliated Ute Citizens, Utah
147678 – Deposits, interest and accruals on interest, Proceeds of Labor, Affiliated Ute Citizens, Utah

The Act of August 27, 1954, Section 11 provides that; "All tribal proceeds now on deposit or hereafter deposited in the United States Treasury to the Credit of the Ute Indian Tribe or either group thereof, shall be available for advance to the Tribe or the respective groups, or for expenditure, for such purposes, including per capita payments, and in either event subject to the approval of the Secretary. The mixed-blood group shall not exceed 50 per centum of the total funds of said mixed-blood group after such division. [To meet this requirement, the Mixed-Blood Accounts in the U. S. Treasury are thus permanent and perpetual under the terms of the UPTA.]

All land, assets, and capital proceeds of the Uinta Valley and Ouray Reservations were subsequently divided based on "Ute" blood-lines not necessarily by blood quantum in accordance with the UPTA (the "Constitution of the Ute Indian Tribe" does not have blood quantum as a requirement for membership or enrollment) The mixed-blood's individual interests in the proceeds from the "*undivided"* estate that included the mineral estate vested under the proposed "plan" For Distribution to the Individual Mixed-blood Members and the beneficiaries were certified when the Final Rolls were published in the Federal Register in 1956. The division was also in proportion to the number of persons per each group as follows:

In 1954 there were approximately 2, 296 members of the chartered Corporation, "Ute Indian Tribe". Through manipulations in the administrative process of the UPTA in 1956, the BIA partitioned 883 identifiable individual members of the Uinta Valley Shoshone Bands of Utah Indians (Uinta) in the following manner:

455 (51.5%) were labeled as "Mixed-Bloods" listed on the Final Rolls of the Ute Indian Tribe published in the Federal Register in 1956;
208 (23.5%) was listed as "full-bloods" because they had ½ or more Ute blood.
220 (25.0%) were not listed on either Final Mixed-blood or Full-blood roll.

76.5 % of the Uinta Valley Shoshone Bands of Utah Indians was racially segregated, labeled as "Mixed-blood Ute's" and targeted for exploitation in a *bill of attainder* fashion under the pretext of P.L. 83-671, approved by the administrative

process of the Secretary of the Interior as the mandated ten-year termination program for the Confederated Band of Ute Indians of Colorado and Utah in 1951 (65 Stat. 193).

By this Secretarial act, the so-called full-blood organization received 72.83814 % interest in the proceeds from all Tribal assets of the Uinta Valley and Ouray Reservations under the pretext of P.L. 83-671.

The so-called mixed-blood organization of Utah Indians purportedly operating under the same umbrella of the chartered Corporation, received 27.16186 % interest in their entire Tribal trust estate (held by Executive Order since 1861) under the pretext of the Secretary of the Interior's administration of P.L. 83-671 (68 Stat. 868). In addition, the tribal organization 'Affiliated Ute Citizens' was never seated in the joint management process of the *"undivided"* trust assets with the Business Committee as required under the terms of the initial Act of 1954. That position was effectively "taken" by the Ute Distribution Corporation, a state incorporation, under the pretext of P.L. 677 et seq. another administrative procedure of the Secretary of the Interior.

In 2002, the 10th Circuit Court of Appeals reaffirmed that termination under the UPA is restricted to withdrawal of federal benefits and held that hunting and fishing on tribal land is an inherent tribal right; that tribes retained their identity and all vested treaty rights. (*See*, *Timpanogos Tribe v. Conway*, 286 F.3d 1195, 1203, 10th Cir. 2002)

The UPTA specifically exempts *"indivisible"* tribal assets and the 1937 chartered Corporation from its operation and has no effect on the pre-1954 separately held individually allotted land on the Uinta Valley and Ouray Reservations (never mentioned in said act). Under the UPTA (25 U.S.C. § 677i), those assets not susceptible to equitable or practicable distribution remain the common property of both the terminated and non-terminated members of the Tribe, but, remain the inherent exclusive property of the Uinta bands of Utah Indians by Executive Order in 1861 under operation of the chartered Corporation, "Ute Indian Tribe" where the 'title' is held by the United States.

§ 677i also states: "After such division, the rights or beneficial interest *(trust funds)* in "tribal" property of each mixed-blood person whose name appears on the roll shall constitute an "undivided" interest in and to such property which may be inherited or bequeathed …" (Emphasis added)

The "Uinta Band" of Utah Indians of the Uinta Valley and Ouray Reservations was by de facto terminated from the *Confederated Band of Ute Indians* of Colorado Territory pursuant to the UPA. They were not terminated from the 1938 chartered Corporation *"Ute Indian Tribe."* The "Uinta Band" of Utah Indians has never been the subject of any Congressional termination legislation and the only Tribe listed on the Secretary's official *List of Federally Recognized Tribes* is the 1938 federally chartered Corporation *"Ute Indian Tribe"* a designation that does not tell anyone anything of a factual nature.

The Secretary's list should, but does not, by design, include or list any of the federally recognized sub-Bands in operation under the umbrella of the 1938 chartered

Corporation on the Uinta Valley and Ouray Reservations consisting of the "Uinta Band" of (Shoshone) Utah Indians, and the two; "White River" and "Uncompahgre Ute" groups of allottees formerly from Colorado Territory.

Under the pretext of P.L. 83-671 in 1954 this was changed and the affected Indians on the Uinta Valley and Ouray Reservations were racially classified as "Utes" and divided into one of the following categories and listed as either "mixed-blood" or "full-blood" members, of the "Confederated Band of Ute Indians" not of the federally chartered Corporation as misrepresented and commonly understood, in the following manner;

Uinta Band of (Shoshone) Utah Indians	)	a.k.a. "Mixed-Bloods"
White Rivers	)	
Uncompahgre Ute	)	"full-bloods" - Utah
Uintah Ute's (1/2 or more Ute blood)	)	
Southern Ute Tribe and Ute Mountain Ute Tribe	)	Colorado

The historic Uinta Valley Bands of Utah Indians of the Uintah Valley and Ouray Reservations in Utah have never been and are not now a part of the historic Confederated Band of Ute Indians of Colorado Territory.

At the end of the process for establishing the Final Rolls of the Tribe, the 208 individuals with ½ or more Ute blood was categorized as "full-blood" and added to the other Ute's labeled full-blood (1413 members), and thus the entity operating on the Uinta Valley and Ouray Reservations today, thought to be the chartered Corporation, d/b/a the "Ute Indian Tribe" created under the IRA, is actually the Confederated Band of Ute Indians in the form of White Rivers, Uncompahgre Ute's, and 208 Uintah Ute's (a.k.a. Northern Ute Tribe). This condition may not legally, but may technically be construed to also include the Ute Mountain Ute's and the Southern Ute's of Colorado by the orchestrated evolution of said Ute termination legislation in 1951. (At least they think it does)

The Ute's who are residing on the Uinta Valley and Ouray Reservation officially call themselves the "*Northern Ute Tribe"* which is not a federally recognized tribe by BIA standards and not under the requirements of the Indian Reorganization Act (IRA) but is an accurate description that expressly demonstrates the distinctions between the two separate entities referred to as the "Ute Indian Tribe" in Utah.

The Confederated Band of Ute Indians has a clear lack of any lawful jurisdiction or authority on the Uinta Valley and Ouray Reservations that is held exclusively by the Uinta Valley Bands of Utah Shoshone Indians by Executive Order of 1861, and in the alternative, is held exclusively by the federally chartered Corporation, d/b/a the "Ute Indian Tribe" established in 1934. The choices are not negotiable.

This fact is indeed recognizable and recognized especially by the leadership of the Confederated Band of Ute Indians of Colorado and Utah; when confronted with a waiver of immunity issue before the 10th Circuit Court of Appeals in 1996, with the Ute Distribution Corporation, a state incorporation, alleging "that in this action, UDC sues the Tribe, as a federally chartered corporation." In response, the Northern Ute Tribe (White Rivers and Uncompahgre Utes) asserts it has <u>never</u> undertaken to act as a federally chartered corporation with respect to the UPTA or the indivisible tribal assets and argues that the Tribe's [s]ection 17 corporation, <u>to the extent it exists</u>, has absolutely no relationship to any aspects of the UPTA." The Tribe further asserts there is "no evidence … the tribe pledged or assigned any indivisible tribal assets … to a corporation or executed any documents related to this action in its corporate capacity." (Emphasis added)

The confusion surrounding the UPTA was not then, in 1950, 1954, 1961, or 1996, and is <u>*not now*</u>, a mistake or an accident. It is, and always has been, a premeditated and well-orchestrated act of identity theft, larceny, deceit, and fraud.

The willful and deliberate administrative blindness involved in the collusion and conspiratorial forces ingrained in the BIA's administration of the UPTA, applied by the above named entities, has effectively usurped, supplanted, defrauded and divested the chartered Corporation, d/b/a the *"Ute Indian Tribe"* of its corporate rights and entitlements under the law, granted to it by congressional legislation under the Indian Reorganization Act (48 Stat. 984) passed into law in 1934. The Uinta Valley Reservation was despoiled and lay open to waste and abuse of its natural resources and to the unlawful 'taking' of the capital assets of the Uinta Band resulting in no present or future possibility for economic development that would secure the future of its people.

The BIA, the self-proclaimed "Northern Ute Tribe," and the Ute Distribution Corporation are fully cognizant that the chartered Corporation has been (as alleged to the 10th Circuit Court in 1996) in a state of suspension (for how long, no one asked) … since1964 ?, when the members of the Confederated Band of Ute Indians in Colorado and Utah was not terminated; that the federally chartered Corporation, d/b/a the *"Ute Indian Tribe"* is temporarily devoid of any external activity; yet is apparently capable of being activated by the "Tribe of record" at will or to accommodate a lawsuit in its name.

Only under the corporate "*name"* may the chartered Corporation sue or be sued and do all legal acts such as the right to buy, sell, lease, receive, or mortgage its property in its own name. It follows then, per the revelation to the 10th Circuit Court in 1996; that all the so-called business conducted on the Uinta and Ouray Reservations by people representing another entity that is <u>not</u> the chartered Corporation, and/or the Tribe that holds legal jurisdiction is null and void. There is only one federally recognized *"Ute Indian Tribe"* intended to operate on the Uinta Valley and Ouray Reservations in Utah … and it does not freely share its plenary corporate rights, power or authority with an unrecognized tribe or a state incorporation whose only jurisdiction is by administrative action of the Secretary of the Interior and the BIA.

From the State's perspective, the chartered Corporation was created for a Federal purpose but the United States Government, under the auspice of the Interior Department and the BIA, for 60 years, has never defended or protected the rights or powers and authority vested in its federal corporate creation against the tyranny that threatens to destroy it and the purpose for which it was intended as it relates to the Uinta Valley and Ouray Reservations in Utah. The defense of the federally chartered Corporation is not *Management's* exclusive responsibility to provide and in this instance is not being provided by either party. Opportunists quickly recognize an opportunity and they take it.

The traditional government of any one of the three Tribes involved, and each Tribe as a body politic will continue to exist as sovereign entities (federally recognized or not) regardless of what happens, or does not happen, to the existence of the federally chartered Corporation within the boundaries of the State of Utah. The federally chartered Corporation holds unprotected legal rights, under the current management, that are bound by law to the Affiliated Ute Citizens organization and to 455 enrolled "Uinta" Band members, under the terms of the UPA. The federally chartered Corporation is also bound by Executive Order to the Uinta Valley Shoshone Bands of Utah Indians ("Uinta" Band) pursuant to the Indian Reorganization Act (1934) whose members, by any other name, are one in the same.

Utah Government and its constituents want exclusive jurisdiction and taxing authority over the rich resources of both reservations without approval of the tribe and/or providing any benefits or services to the Indian people residing within the boundaries of said reservations pursuant to this coveted jurisdiction. The mission to achieve this goal of "self-enrichment" was contrived in 1950 and a program was initiated in 1951 (through totally unrelated legislation intended to only terminate the confederated Ute Band of Colorado and Utah ("*The Southern Ute Rehabilitation Planning Act,"* P.L. 120 (65 Stat. 193) August 21, 1951) a program was launched off the backs of innocent people in the "Uinta Band" of Utah Indians who did not understand the nature, origin, intent or purpose of the "*Ute Partition Act"* from the Utah Mormon Attorneys and State of Utah's perspective.

Summary:

No court, State or Federal, has ever examined the economic effects of the UPTA upon the "Uinta Bands" of Utah Indians of the Uintah Valley and Ouray Reservations, Utah. The premise and postulation set forth early on, about each individual Band identity did not go far enough in many cases, and any individual rights, title, and interests of the Indians living on the Uinta and Ouray Reservations has never been clarified or politically emphasized. The purpose and ultimate goal of the UPTA was legally ethically and morally wrong and continues to be wrong today. LABELS MATTER

Under BIA standards for federal recognition, the members of the Confederated Band of Ute Indians <u>in Utah</u> calling themselves "The Northern Ute Tribe", is not now and has never been a federally recognized tribe that can legally operate outside the power, authority or jurisdiction of the chartered Corporation on the Uinta Valley and Ouray

Reservations unfettered and unmolested, as they have been since 1964. This and other violations have had the full support, with open hostility toward the members of the "Uinta Band" of Utah Indians, of local and regional agents within the Department of the Interior - Bureau of Indian Affairs and agents of Utah government over the ten years prior to 1961 and at all times since.

The subterfuge, larceny, and fraud were further perpetuated and enabled in a significant and memorable provision of the UPTA. Section 5 provides, "Effective on the date of publication of the final rolls as provided in section 8 hereof, the tribe shall thereafter consist of "full-blood" members. Mixed-blood members shall have no interest therein except as otherwise provided in this Act."

Utah exercises an "open-season" policy on the Utah Indians under the pretext of the UPTA that purports to terminate "mixed-bloods" from federal supervision and implies they are also terminated from Tribal membership in the chartered Corporation "Ute Indian Tribe," thus, no longer being Indians, and purports to place the Uinta Valley Shoshone Bands of Utah Indians and their tribal property (trust and otherwise) under State jurisdiction. It is a false premise but it has worked for 60 years.

The Section 5 provision is irrelevant in principle since the so-called "mixed-bloods" as designated by the UPTA are not in fact, "Ute's" and the confederated Ute termination legislation is not binding law upon any other tribe and especially on the Shoshone Bands of the Uinta Valley and Ouray Reservations in Utah regardless of any Utah Attorney generated "*paper label"* attempting to change the character and gender of who the *Utah Indians* are historically solely for political gain and self-enrichment.

The Uinta Valley Shoshone Bands of Utah Indians of the Uinta Valley and Ouray Reservations in Utah are not now and have never been a part of the confederated Band of Ute Indians of Colorado and Utah. The "Uinta Bands" rights, title and interests have always been and remain today separated by law and territorial boundaries regardless of all else manufactured to the contrary in 1951 and thereafter … LABELS MATTER

The Confederated Band of Ute Indians do not now and have never held any title, rights or interests in the Uinta Valley and Ouray Reservations, (except for the allotments they obtained under the 1880 Agreement and the Dawes Allotment Act (24 Stat. 388) of 1887. They are barred by their 1880 Agreement with the United States from acquiring any federal land beyond the allotments. The historic records and official documents of the BIA and congressional legislative documents of the time contain these material facts and further that the Confederated Band of Ute Indian's termination legislation issued in 1951 (65 Stat. 193) has never been repealed by Congress.

The Secretary of the Interior is responsible for administratively approving the Ute long-range plan in 1954 (a.k.a. UPTA) and every amendment made to it thereafter, and for the nefariously worded termination proclamation issued by Stewart Udall in 1961 that purportedly terminated 490 individuals listed on the "Mixed-Blood" Roll of the "Tribe" (confederated Ute Tribe not the Chartered Ute Tribe) that also allegedly terminated his/her trust property rights, and beneficial interests, from federal supervision and federal

recognition. The so-called "mixed-bloods" are purportedly terminated, but their assets are not via the Secretary's administrative acts and actions under the pretext of P.L. 671.

The many Secretaries before 1951 and since 1951 have at least a working knowledge of every particular tribe under his/her purview including the makeup of each one. Only through negligence and malfeasance would he/she not be cognizant that the Uinta Valley Shoshone Bands' of Utah Indians of the Uinta and Ouray Reservation, Utah (a.k.a. "Uinta") were never officially targeted or specifically named (as such) in any congressionally processed termination legislation carried out in the 1950's - 60's pursuant to the Federal Policy of 1953 or otherwise. Hiding a termination act for one specific Tribe in unrelated legislation for a different Tribe from a different State or territory is not only unethical but constitutionally illegal.

In 1994 Congress passed P. L. 103-263 into law that amended § 16 of the IRA to prohibit any federal agency from promulgating or implementing any regulation or administrative decisions that would classify, enhance, or diminish the privileges and immunities available to Indian Tribes due to their status as Indian Tribes. The law also nullified any such regulation or decision already in existence or in effect on the date of enactment of this Act. It is retroactive to 1934.

The Uinta Valley Shoshone Bands of Utah Indians remain as recognized members of the federally chartered Corporation, *"Ute Indian Tribe" of the Uinta Valley and Ouray Reservations in Utah,* a federally recognized tribe. There is no cloud over this de facto legal material fact and after all the smoke is cleared away, it is apparent that the chartered Corporation or the Uinta Valley Bands of Utah Indians was not touched by, and not dissolved by the Confederated Ute Termination Legislation in 1951 and furthermore, would not be touched if the Confederated Band of Ute Indians had indeed been terminated as intended in 1964, or even today. There should not be any legitimate resistance to the 1994 legislation should it be an instrument in repealing the UPA and all subsequent acts and actions initiated by the Secretary since 1954 including the Termination Proclamation issued in 1961..

The confederated Band of Ute Indians of Colorado and Utah was never terminated pursuant to said legislation issued in 1951 and the legislation has never been repealed by any Act of Congress. To repeal P.L. 120 (65 Stat. 193) would also repeal the UPA and all subsequent Secretarial administrative actions nefariously issued to implement the Ute termination program. For anyone that has ever dealt with any aspects of the UPA, to know that the only legal recipients in the end, of all rights, title, interests and proceeds attached to and collected from the Uinta Valley and Ouray Tribal estate are the exclusive property of the Uinta Valley Shoshone Bands' of Utah Indians may seem like poetic justice.

The "Affiliated Ute Citizens" (AUC) organization is the only federally approved representatives for the 490 individual members labeled as "Mixed-Bloods" listed on the 'Final Mixed-blood Rolls' of the Confederated Ute Tribe in 1956 who are accurately proclaimed to no longer be members of said Confederated Ute Tribe pursuant to the

UPA…the so-called "mixed-bloods" were never a part of the confederated Ute Band to begin with. Affiliated Ute Citizens has never been abandoned or dissolved by any Act of Congress or secretarial order since it was organized and federally approved on April 5, 1956 pursuant to the terms of the UPA. Its existence has been constant and is perpetual in nature.

The Bureau of Indian Affairs (BIA) and the Bureau of Land Management (BLM) are agencies of the United States Government that has been proven to be inherently corrupt in their dealings with Indians on Indian reservations. The natives of the Uinta Valley and Ouray Reserves are no exception to the criminal collusion and corruption orchestrated and engaged in within its borders that is carefully hidden by regional and local BIA and BLM Agents in concert with other 'special interest' individuals and political entities in Utah. There is a continuing program of collusion and corruption prevalent in the erosive effects permitted by and throughout the operation of the UPA, whether by device or ignorance is irrelevant. This program is capable of exposure by law enforcement in the Executive Branch of the United States Government and it deserves to be investigated and the effects on the Uinta Valley Bands of Utah Indians reversed and their entire tribal estate recovered, reaffirmed, and restored to their exclusive possession as it was in the beginning and should have remained so to this date.

There is precedent for such reaffirmation, restoration, and reinstatement found in the Pokagon Band of Potawatomi Indians of southwestern Michigan and northern Indiana. In a memorandum (M-36991) dated September 19,1997, the Office of the Solicitor, Washington, D.C. issued an opinion related to the Pokagon Restoration Act, Congress found that the Pokagon Band previously was recognized and is a political successor to signatories of at least eleven treaties with the United States. 25 U.S.C. § 1300j (1). The Senate Report described the federal government's prior recognition of the Pokagon Band this way:

In 1888, the Secretary of the Interior approved a contract between the Pokagon Band and its attorney. Moreover, the Secretary specifically confirmed that the band was "residing in tribal relations". The Committee notes that the term "tribal relations" is a term of art used to designate groups that the United States formally acknowledges as an Indian tribe. Hence, the Secretary of the Interior's approval of the attorney contract is significant because such approval was necessarily predicated upon existence of a political relationship between the United States and the Pokagon Band.

S. Rep. No. 103-266, 103d Cong., 2d Sess. At 3. Congress went on in the Act to find that the Band had been administratively terminated. 25 U.S.C. § 1300j (6). The Senate Report described this termination as wrongful:

The Committee concludes that the Band was not terminated through an act of Congress, but rather the Pokagon Band was unfairly terminated as a result of both faulty and inconsistent administrative decisions contrary to the intent of the Congress, federal Indian law and the trust responsibility of the United States * * * . . . The Band's claim of rights and status as a treaty-based tribe, and the need to <u>restore</u> and clarify that status, has been clearly demonstrated.

S. Rep. No. 103-266, at 6.
Based on these finding and testimony of the Interior Department, the Act provided: "Federal recognition of the Pokagon Band of Potawatomi Indians is hereby affirmed." Id. § 1300j-1. Thus, the Restoration Act re-vested the Band in its former status as a tribe with a government-to-government relationship with the United States.

* * *

Close attention should be paid to the events after 1954 in the Continuation of this chronological outline as follows:

1956: "Mixed-Bloods" Organize Pursuant to the UPA as *"Affiliated Ute Citizens"*

The UPTA provides for the "Uinta" mixed-bloods' to organize and so they did and on the same day as the 'Final Rolls of the Ute Indian Tribe' was approved for publication in the Federal Register, April 5, 1956, the Commissioner of Indian Affairs, Glenn L. Emmons signed the federally approved Constitution and Bylaws of the *"Affiliated Ute Citizens of the State of Utah"* as the organic law" and the framework for its management and the tribe's body politic under which the 490 members (248 adults and 242 children) and their descendants would jointly manage (in perpetuity) the *"undivided"* tribal trust assets, including all trust funds there from, with the Business Committee representing the full-blood members.

"*Affiliated Ute Citizens"* (AUC) organized as an unincorporated tribal entity, managed by 5 elected members as the Board of Directors, in accordance with its federally approved Constitution. AUC is the only federally recognized and approved representative for the 490 members of the so-called mixed-blood group (including all descendants) that derived from the UPA and who are also 'charter members' of the federally chartered Corporation, "Ute Indian Tribe" of the Uinta Valley and Ouray Reservations in Utah so long as it continues to exist.

Between the years 1956 – 1961, the UPA required the division and distribution of all tribal assets between the mixed-blood organization and full-blood organization of the "tribe" represented by the Affiliated Ute Citizens and the Business Committee of the Northern Ute Tribe.

Before1954, tribal accounts and Individual Indian Money Accounts were established in the United States Treasury to the Credit of the chartered Corporation "Ute Indian Tribe" and in the initial division all tribal capital proceeds continued to be deposited in said accounts.

The Business Committee of the full-bloods by resolution No. 56-169, Dated October 17, 1956, and the Board of Directors of the Affiliated Ute Citizens of the mixed-bloods by resolution No. 56-120, dated October 10, 1956 approved and requested a division of tribal funds held in trust by the United States. These resolutions were

approved by the Commissioner of Indian Affairs on October 30, 1956. The division is based on the relative number of persons comprising the final membership roll of each group and was divided into two proportions accordingly; 72.83814 % to the full-blood group and 27.16186 % to the mixed-blood group…the treaty tribe.

Subsequently, trust fund receipt accounts were established pursuant to General Regulation No. 84, revised, to permit this division and to properly account for tribal funds of the Affiliated Ute Citizens of the Ute Indian Tribe as follows:

147178.1 – Deposits, Proceeds of Labor, Affiliated Ute Citizens, Utah
147178.2 – Deposits, Proceeds of Labor, Affiliated Ute Citizens, Utah (Licenses under the Federal Powers Act.)
147179 – Affiliated Ute Citizens, Utah, Ute Five Per Cent Fund, Etc.

Corresponding appropriation and interest accounts were also prescribed. The share of the Affiliated Ute Citizens in all Uinta and Ouray Indian Funds earning four per cent interest and the interest funds thereon was credited to accounts 147178.1 and 147678 when available. 50 per centum of said funds were to remain in said accounts in accordance with Section 11 of the UPTA. Maintenance of these accounts is legally binding on the Secretary of the Interior.

The actual resources of the Uinta Valley and Ouray Reservations, all rights, title, interests, and tribal capital proceeds collected there from, whether the proceeds are held in common or individually, is held by the United States Government in trust and is alleged to be deposited in the United States Treasury for the members of the chartered Corporation, d/b/a the *"Ute Indian Tribe"* a federally recognized tribe…LABELS MATTER!

By "bootstrapping" the Uinta Valley Shoshone Bands and their tribal assets to the Ute termination legislation in 1951; making it appear as though they were legally eligible for termination and therefore terminated under the 1953 Federal Policy HCR 108 without express Congressional legislation to unambiguously terminate said Uinta Tribe of Utah Indians; and by mislabeling them "mixed-blood Ute's" has resulted in a program of exploitation, fraud, conspiracy to defraud, embezzlement, identity theft, money laundering and in the waste and abuse of their economic wealth without due process or an accounting, State or Federal, for any of it. Without an accounting no one knows who else is unduly benefiting from this subterfuge beyond the obvious.

1956: P.L. 920 (70 Stat.963) August 2, 1956 – First Significant Amendment to the UPA

The UPTA was manipulated into existence in 1954 by Utah's Mormon Senator Arthur V. Watkins, Mormon affiliated attorneys, John Boyden, acting as attorney for both the mixed-blood and full-blood groups simultaneously, claims attorney, Ernest L. Wilkinson, Albert H. Harris, an Uncompahgre Ute appointed by the Governor of Utah as Director of Utah State Division of Indian Affairs, a BIA Employee and Full-blood representative simultaneously, 1956 – 1977, and other special interest groups in Utah.

John Boyden initiated two premature but significant amendments to the UPTA. The first was [S.3779] P.L. 920 (70 Stat. 963), so he could insert a state incorporation into the UPA program by subverting and supplanting the *mixed-bloods*' tribal organization, Affiliated Ute Citizens.' The AUC's Tribal power and authority to represent the so-called mixed-blood group granted by the UPTA, was quickly shifted to the state incorporation to literally replace the tribal entity by de facto in the BIA regulations and by all public appearances, under the pretense and pretext of P.L. 671.

The Amendment provides; "Any corporation organized by the mixed-blood members for the purpose of aiding in the joint management with the tribe and in the distribution of un-adjudicated or un-liquidated claims against the United States, all gas, oil, and mineral rights of every kind and all other assets not susceptible to equitable and practicable distribution shall not be subject to corporate income taxes. Any."

First of all, the assets described in this amendment are those tribal assets deemed, by the UPTA, to be *"undividable"* tribal assets, including all trust proceeds, that would remain held by the United States in trust for the benefit of both mixed-blood and full-blood groups under the Secretary of the Interior's supervision, lacks express congressional authority.

Second of all, the amendment does not empower the 'entity' or imbue it with any of the gifts enumerated in the discussion engaged in the legislative history that subsequently found their way into the articles of incorporation of Ute Distribution Corporation in 1958. It does nothing more than grant a tax-exemption to the corporation [if] it was created by Affiliated Ute Citizens (AUC).

The amendment also enumerated covenants [S. 3779] with AUC in the form of restrictions placed on the state incorporation "if" it was created as purportedly; "engaged in administrative work that probably would otherwise be assumed by the United States Government." (Wow!)

Receipt and distribution of trust funds was a '*right'* already conveyed to AUC and the Business Committee two years earlier and there is no (required) agreement between them to change the mode of this delivery to the mixed-blood group. The jointly held *"undivided"* tribal assets, including the trust funds generated from gas, oil, and mineral development held in trust for the benefit of both groups is just that –"*undivided."*

The trust funds Ute Distribution Corporation has been receiving through the Confederated Ute Accounts in the U. S. Treasury since 1958 was vested to each individual so-called "mixed-blood" in 1956 when the Final Rolls of the Ute Indian Tribe was published in the Federal Register and the "Plan" for the Division of Assets to the Individual Mixed-blood members was approved by the Secretary of Interior. Therefore, the Affiliated Ute Citizens organization and the Secretary lacked the statutory power and authority to convey the trust funds belonging to individual members to a state incorporation without each individual's written consent and why would they knowingly

incorporate a third party into the process of receiving their individually mandated property?

None of the covenants were actually kept or acknowledged by anyone in authority, but they are nevertheless in the text of the legislative history of the amendment. The UDC management board has always been a nepotistic board; today, it is managed by enrolled Indians from the Paiute tribe and other tribes (not the Confederated Ute Indian Tribe) and is kept in place by the non-Indian stockholders who receive 70% of the Indian trust funds and includes the Mormon Church.

In granting exemption from Federal income tax the Legislative Report purports; "it is intended only to preserve the tax-exempt status of the distributions from trust funds held by the United States Government on the principle that the corporation would merely act as a conduit for the transmission of funds from the United States Government to the individual members of the mixed-blood group, their heirs or legatees. This is proper because the distributions represent an original tribal capital asset." [There seems to be an assumption here that the trust funds would be received by the AUC organization, the authorized representatives and receiving agent, then, through an accounting procedure the trust funds would be transferred through the conduit corporation to the 490 beneficiaries and heirs. No matter how one tries to manipulate the process, it remains clear the conduit corporation was an unnecessary entity added to the UPTA purely for self-enrichment.]

The second significant amendment made in1962 will be discussed in order.

1957: Uinta / White River Court of Claims Settlement – P.L. 717 (70 Stat. 546)

An Act to provide for the restoration of all un-disposed of mineral, oil, and gas resources and coal lands to the Ute Indian Tribe only with a proviso; that the Act shall not become effective unless and until the Indians approve and agree to "share" in the benefits there from, in such a manner as may be designated by the Secretary of the Interior, within one year after the approval of said Act. Acceptance was made by the Business Committee representing the full-blood members and the Board of Directors of Affiliated Ute Citizens representing the mixed-blood members on June 19, 1957, approximately two months after they were organized.

The rights to manage and receive the benefits from all mineral rights underlying the reservation(s) was a distributable right under the terms of the UPA that was conveyed to Affiliated Ute Citizens and the Business Committee pursuant to these 1957 agreements which are 'sovereign binding laws' between the two groups of the Tribe. (What Tribe?) [The Ute Distribution Corporation (UDC) was not a party to said agreements it is not a sovereign but a state incorporation prematurely created by John Boyden in 1958. The Ute Distribution Corporation is irrelevant to this and other tribal transactions, but nevertheless is accepted by the BIA as a major player under the pretext of the UPA.

In the evolution of the Confederated Ute Band termination legislation its mission (UDC) was to supplant the AUC organization and aid in the expulsion of the 490

members (a.k.a. mixed-blood Ute's) from the Confederated Ute Tribe and take Affiliated Ute Citizen's place in the joint management of all tribal assets with the Business Committee under 25 CFR - Part 217…and so it did.] Today, the Uinta Valley Bands of Utah Indians (Uinta') are, for all intents and purposes under the pretext of the UPA, once again, an independent identifiable traditional Tribe, separated *by termination and expulsion* from the federal corporation, the two former Colorado Bands of White Rivers and Uncompahgre Ute's (Northern Ute Tribe) in Utah and, in general, from the Confederated Band of Ute Indians of Colorado and Utah to which they were never a historical or territorial part of the two latter groups at any time covered in this material … except by artifice.

1958: The Ute Distribution Corporation, a Premature State Incorporation.

Under the pretext of P.L. 83-671, John Boyden, the Secretarial approved tribal attorney for both the mixed-blood and full-blood group simultaneously during this period of time (1950-1961), created a non-profit membership corporation under Utah State Law on December 8, 1958 purportedly as an interim step in anticipation of the mixed-blood termination and a conduit for the distribution of "*trust proceeds"* transferred from the U.S. Treasury to the mixed-blood group that was a constitutional function performed by Affiliated Ute Citizens, the proposed parent company, for equal distribution to the 490 individual mixed-blood beneficiaries, collected from the *"undivided"* tribal assets, in particular the tribal water, gas, oil, and mineral assets underlying the Uinta Valley and Ouray Reserves, Utah.

Non-profit corporations are traditionally membership corporations, they do not issue stock share interests that can be taxed by the IRS but there is a passing mention of stock shares in the language of the legislative history of this amendment that was apparently enough for the Utah attorney to exploit even though the bill does not convey any authority to issue stock shares and gives no indication that the mixed-blood and full-blood Tribal representatives, in joint agreement, were aware of or approved the amendment. [The confederated Ute Tribe told the 10th Circuit Court in 1996 (UDC v. Ute Indian Tribe, No. 96-4194); "there is no evidence … the Tribe pledged or assigned any indivisible Tribal assets…to a corporation or executed any documents related to this action in its corporate capacity."]

The state incorporation was created from the fraudulent circumstances surrounding P. L. 83-671, but Ute Distribution Corporation supplanted the power and authority of Affiliated Ute Citizens by force in the Utah Courts. The "rule of Law" was subsequently established by the U.S. Supreme Court in 1972 through *dicta* that AUC created UDC and therefore UDC is the authorized representatives for the (terminated) mixed-blood group. Regardless that the UDC articles of incorporation reach far beyond any authority granted to the 'Affiliated Ute Citizens' organization from whom the UDC purports to derive its power and authority.

Nevertheless, the Secretary allowed the non-profit corporation, under color of Utah Law, to issue certificates of stock shares representing each individual's proportionate

share in the trust funds passing through the corporation, to each individual mixed-blood (including 242 children) under the pretext of P.L. 83-671.

The Corporation managers and employees of First Security Bank of Utah, N.A. immediately (1959) brokered and sold as many as possible of the mixed-blood's certificates of stock shares to non-Indian residents of Utah and by 1960 (three years before the official termination proclamation) white stock holders controlled the corporation. By this same treacherous act, the Ute Distribution Corporation receives (directly from oil and gas companies by using the BIA as a conduit; by-passing the United States Treasury) the Affiliated Ute Citizens' 27.16186 % of the tribal capital trust funds belonging to the 490 members of AUC (a.k.a. mixed-bloods), under the pretext of P.L. 83-671. (See, attached copies)

1961: The Secretary's Termination Proclamation, August 27, 1961.

The UPA established a time-frame of seven years from the date of enactment when the division of assets was to be completed and distributed to the administrative control of Affiliated Ute Citizens and the individual adult members of the organization. In 1961, there were still 143 minor children included in the "mixed-blood" group to which the Secretary held a direct trust responsibility to protect all rights, title, and tribal interests of in accordance with the UPA. Then there is the matter of the *"undivided"* tribal assets in the form of: "All un-adjudicated or un-liquidated claims against the United States, all gas, oil, and mineral rights of every kind and all other assets not susceptible to equitable or practicable distribution" that would be held jointly for both groups by the United States and would only be divided as tribal capital trust funds held by both tribal organizations jointly in the U.S. Treasury to the credit of the Ute Indian Tribe.

By 1960 the majority of the 490 original mixed-blood stock holders of UDC was no longer a stockholder but, under federal law, did not have to be a UDC stockholder to receive their individual proportionate share of the trust funds. The trust funds come from tribal lands, an interest was allocated to them by federal statute whether they are a stockholder or not, nevertheless the tribal trust funds passing through the conduit corporation was captured by non-Indians, by 1959-60, under color of Utah law, (two years before the termination proclamation was to issue) and is distributed to non-Indian stockholders and other Indians from other tribes under the pretext of the UPA. Today, only a handful of the lawfully eligible beneficiaries from the original mixed-blood group receive any of the trust funds under the pretext of the UPA regardless that there are still a number of the 'original' so-called mixed-blood group alive whose descendants have been disenfranchised by the "taking."

Section 23 of the UPA provides: "…the Secretary shall publish in the Federal Register a proclamation declaring that the Federal trust relationship of such individual is terminated." The Secretary issued the Termination Proclamation purportedly in accordance with the Policy and Procedures set forth in Title 25 – Chapter1, Subchapter V – TERMINATION OF FEDERAL-INDIAN RELATIONSHIPS, that required a declaration that the division and distribution of said property had been completed in

accordance with the law, along with a list of the assets terminated and a list of the members of such organized group (tribe) in accordance with the criteria set forth in the approved organic document (Constitution) of the group (tribe).

The 1961 Termination Proclamation issued for the so-called *"mixed-blood Ute's"* of the 'Northern Ute Indian Tribe' of the Uinta Valley and Ouray Reservations in Utah, per the UPA, reads as follows:

> "Pursuant to the authority contained in Section 23 of the Act of August 27, 1954 (68 Stat. 868), as amended; 25 U.S.C. 677v, it is hereby proclaimed that the Federal restrictions on the property of each individual mixed-blood member of the Ute Indian Tribe of the Uintah & Ouray Reservation in Utah having been removed, the Federal trust relationship of such individual is terminated and that effective midnight, August 27, 1961, such individual shall not be entitled to any of the services performed for Indians because of his status as an Indian. All statutes of the United States which affect Indians because of their status as Indians shall no longer be applicable to such member, over which supervision has been terminated, and the laws of the several states shall apply to such member in the same manner as they apply to other citizens within their jurisdiction." SIGNED: Stewart Udall, Secretary of the Interior, [F.R. Doc. 61-8225; Filed, August 25, 1961]

What were actually terminated were Federal services, not the trust relationship retained through the "undivided" tribal assets or the tribal status preserved by the continuation of the Federal Corporation.

Also in affect was the; PERTINENT STATUTES AND REGULATIONS UNDER THE TERMINATION ACT. (UPTA), (25 CFR – Part 243, Appendix F (h); [Regulations under Public Law 677 et seq. – UTE INDIANS OF UTAH: Distribution of Assets Between "Mixed-blood" and Full-blood" Members; Termination of Federal supervision over Property of "Mixed-blood" members. (1956).] which provides:

"Termination of Federal supervision" means termination of federal supervision over the particular real estate involved by the issuance of a patent in fee or other similar title document and does not mean termination of the ward-ship relationship between the Indian and the United States on the occasion of the issuance of a so-called 'Termination Proclamation.' (25 U.S.C. 677v)

The Secretary of the Interior issued a Termination Proclamation mandated in P.L. 83-671 (UPTA) that purportedly terminated the individual mixed-blood members and their tribal property from Federal Supervision except for the *"undivided"* tribal assets. The Tribal Capital Proceeds (trust funds) from these undisturbed trust assets would be divided and distributed in accordance with the percent designated for each group. Termination under the UPTA is restricted to withdrawal of federal benefits … the mixed-bloods were terminated but their assets were not. !!

The powers and authority granted to the Affiliated Ute Citizens organization (AUC) was systematically attacked until the Board of Directors were frustrated and demoralized and the organization was nearly obliterated by the administrative process under the auspice of the Secretary of the Interior, Stewart Udall, who was also a Utah Mormon Brethren to Utah Attorney, John Boyden and Ernest Wilkinson and Utah Senator Arthur V. Watkins, and by 1961, the Ute Distribution Corporation, a state incorporation stepped easily in to replace the AUC in all tribal functions, including jurisdiction, under the pretext of the UPA as joint managers of the Uinta Valley and Ouray Reservation's assets with the Business Committee representing the Confederated Band of Ute Indians in Utah who officially call themselves "The Northern Ute Tribe."

1962: Public Law 87-698 (70 Stat. 597) September 25, 1962.

By 1960, UDC was claiming to be the authorized representatives (under color of State law) for the 490 members of Affiliated Ute Citizens, but, apparently there was some doubt as to UDC's alleged power and authority in the Court of Claims. The Case; Uintah Ute Indians of Utah v. United States, Docket Nos. 44 and 45 had been settled by the Indian Claims Commission on April 15, 1960. A Memorandum was issued to the Northern Ute Tribe of the Uinta and Ouray Reservations and Affiliated Ute Citizens to adjoin a Resolution of the membership of the AUC approving settlement of Docket Nos. 44 and 45, authorizing the President and Secretary of the Board of Directors of AUC to sign a stipulation for the Entry of Judgment. The Ute Distribution Corporation was divested of its self-proclaimed authority, under operation of State law, in this instance so that the tribal entity, Affiliated Ute Citizens, could sign the Stipulation for Entry of Judgment on behalf of the 490 "mixed-blood" members of the AUC tribal organization, recognized under Federal law as the authorized representative.

Utah Senator Frank E. Moss introduced to Congress, this second amendment to Section 10 (677j) of P.L. 83-671. This ex-post facto law was an attempt, by the "new" non-Indian stock holders of the Ute Distribution Corporation to hold themselves out as tax-exempt in regard to the trust and restricted tribal capital proceeds collected by the BIA from the Uinta Valley and Ouray Reservations. The non-Indian stock holders had been receiving the mixed-bloods' individual proportionate share of the capital trust funds of the Ute Indian Tribe, passing through the conduit corporation since 1959-60 as if it was a *for-profit* corporate distribution, without changing any federal laws against such activity without changing the corporate structure under state law, and by concealing the identity of the stock holders as non-Indians. The UDC took upon itself the false personae of being an Indian Tribe and federal agents in the Interior Department have, to date, displayed a defensive acquiescence to this façade.

1967: Public Law 676(a), 81 Stat. 164), as amended; (82 Stat. 171) August 1, 1967.

Ute Distribution Corporation (UDC) is included by name in this Act to receive the trust funds resulting from the 1950 Judgment against the United States in favor of the Confederated Bands of Ute Indians. [Cited in the dicta of *Affiliated Ute Citizens v. U. S.*, 406 U. S. 128, 92 S. Ct. 1456, 1467 (1972) as supporting the proposition UDC is the

authorized representative for the 490 members of AUC, their heirs and legatees, under the pretext of the UPA.]

1967: Public Law 677 [25 U.S.C. §§ 677 et seq.]:

An Act to amend P. L. 83-671 that, inserts the Ute Distribution Corporation, a state incorporation, into the Confederated Ute termination legislation (via the "Northern Ute Tribe") to take the place of the tribal entity organized under the UPTA as the Affiliated Ute Citizens. [On the surface, UDC appears to be inserted into the federally chartered Corporation d/b/a the *"Ute Indian Tribe"*; that is not the case in reality].

Every administrative act and action taken by the Secretary of the Interior from 1951 to the present stems from the "confederated Ute Band termination legislation" issued in 1951 … that is still on the books. [P.L. 120 (65 Stat. 193) *The Southern Ute Rehabilitation Planning Act*, August 21, 1951]

The Secretary of the Interior, acting "art and part" inserted the Ute Distribution Corporation (UDC) into the UPTA by amending the initial administrative act of 1954 with another administrative act P. L. 677 et seq.; An act specifically tailored for the UDC, a state incorporation that would subsequently judicially displace and replace the Affiliated Ute Citizens as the tribal representatives for the 490 members of the mixed-blood group partially born from "dicta" voiced in the U.S. Supreme Court Action in 1972.

The so-called "mixed-blood" group was given political autonomy from the full-blood group by resolution in 1955 including jurisdiction over the assets and membership of its tribal organization Affiliated Ute Citizens

In an effort to circumvent the intent of joint tribal management, in 1958, John Boyden created an unnecessary "non-profit" corporation (Ute Development Corporation later changed to Ute Distribution Corporation) under State law as a conduit or "pass-through" for the 27.16186 % interest in the "trust funds" vested to the 490 mixed-blood beneficiaries to be distributed to the said individuals (or their heirs) listed on the Final Mixed-blood Roll of the Tribe (which Tribe?) published in the Federal Register in 1956, however, the AUC was never seated in the joint management process over the "undivided" tribal assets with the Northern Ute Tribe Business Committee as required under the UPTA.

The purported termination of the Uinta Valley Shoshone Bands' by labeling them as "mixed-bloods Ute'" and *"bootstrapping"* them and their Tribal wealth to the confederated "Ute" termination legislation in 1951 was an attempt to administratively terminate the Bands' of Utah Indians by operation of a Secretarial administrative process (P.L. 83-671) that lay hidden in this legislation and effectively, terminate the 'Bands of Utah Indians' from Federal supervision but not their assets, that are now claimed and shared by the members of the "Northern Ute Tribe", the State of Utah, and "Ute

Distribution Corporation" that is 70 % non-Indians including the Mormon Church, 20 % Northern Ute Tribe, and 10 % original Uinta Band members.

The Federal Corporation operating under the corporate name *"Ute Indian Tribe"* of the Uinta Valley and Ouray Reservations, Utah, a federally recognized Tribe, has never been dissolved; the 'organic law' of the tribal organizations under its umbrella have never been withdrawn or their tribal government disbanded by express termination in the language of any Congressional Act of Congress - and cannot be implied.

1971: Lands Returned to the Ute Indian Tribe Including AUC Lands Under the UPA.

Pursuant to Executive and Departmental Orders published in the Federal Register Vol.36 – October 1, 1971.

"Whereas, the Uintah and Ouray Tribal Business Committee of the Ute Indian Tribe has petitioned the Secretary to remove the cloud on the tribe to its lands by revoking said oil shale withdrawal as it applies to lands on said reservation;

Whereas, it is in the best interests of the public and the Ute Indian Tribe to restore any remaining un-disposed-of open land on said reservation existing subsequent to said revocation;

Whereas, the superintendent of the Uintah and Ouray Reservation, the area director of the phoenix Area Office, and the Commissioner of Indian Affairs have recommended that such petition be granted;

Now therefore, by virtue of the authority vested in the President of the United States by Section 1 of the Act of June 25, 1910 (36 Stat. 847; 43 U.S.C. 141) and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is hereby ordered that the Oil Shale Withdrawal of April 15, 1930 (Executive Order No. 5327), is hereby revoked insofar as it pertains to the following lands, all of which are located within the Uintah Special Base and Meridian survey: (**1**) all lands held in trust by the United States for the Ute Indian Tribe of the Uintah and Ouray Indian Reservation , Utah; (**2**) all lands held in trust by the United States for individual Indian allotees, their heirs or assigns; (**3**) all lands conveyed pursuant to the acts of June 18, 1934 (48 Stat. 984); and *August 27, 1954 (68 Stat. 868)*; (**4**) all lands owned by the United States in which the Ute Indian Tribe of the Uintah and Ouray Reservation, Utah, has an interest in the proceeds from lease, sale, or other disposition; (**5**) all lands within the Forest and Grazing Reserves which are held in trust by the United States for the Ute Indian Tribe of the Uintah and Ouray Indian Reservation; (**6**) the lands, including lands containing deposits of oil shale, restored to tribal ownership by the Order of August 25, 1945; and (**7**) all lands described below, some of which are included in the prior categories." (Gives a lengthy description of land) (Emphasis added)

1975: Termination of Indian Tribes – Terminated.

The Termination Policy, H.C.R. 108 was renounced, repudiated, and repealed by Richard Nixon in 1970. Nixon's repeal however, was irrelevant to the "Ute" termination legislation that was passed into law prior to H.C.R. 108 in 1953. Nevertheless, the Confederated Band of Ute Indians was never terminated as mandated in P.L. 120 (65 Stat. 193) in 1951. At the end of the 3 year observation program in 1954, the 10 year program was to begin a rehabilitation and preparation for termination of the Confederated Band of Ute Indians of Utah and Colorado and ultimately end in 1964 with termination. This Confederated Ute Termination Legislation (P.L. 120 (65 Stat. 193), 1951, has never been repealed by Congress.

Moreover, the federally chartered Corporation, d/b/a the *"Ute Indian Tribe,"* like the Uinta Valley Shoshone Bands of Utah Indians (Uinta Bands) was never an intended factor in the termination of the Confederated Band of Ute Indians of Colorado and Utah. They were never intended to be touched, disturbed or dissolved by any of the program's acts or actions of the Secretary of the Interior in the process to terminate the "Ute" Indians mandated and authorized by P.L. 120 (65 Stat. 193) in 1951.

1976: President Richard M. Nixon's TASK FORCE 10.

The 'Final Report of the American Indian Policy Review Commission, Task Force 10, was issued in October of 1976.

Specific Findings: "For the most part, the terminating process affecting the mixed-blood portion of the Uintah Ute' was a highly complex and extensively detailed set of operations, which would have required several teams of Federal Attorneys and Social Scientists, a number of years of study and investigation to comprehend the intricate legal and social processes involved. This of course, has not been possible within the restraining financial and time limits of the Task Force's life span. Further, the Task Force is reluctant to recommend any specific legislative action to the Commission. However, the Task Force is quite aware of the high stakes involved: A Tribe ravaged and divided by termination, a "recognized" Ute Tribe subjugated to impending termination, and to further aggravate matters, a reservation rich in vital natural resources, such as gas, mineral and water. The Task Force recommends further an immediate investigation into the situation on the Uintah and Ouray Reservation, involving BIA mismanagement of Trust Assets, and non-ethical and illegal BIA Administrative actions throughout each phase of the termination process." Page 1702: F. "Congress should direct the General Accounting Office to immediately proceed with full and complete investigations of trust mismanagement of assets of all terminated tribes, in particular the Klamath Tribe of Oregon, the Minominee Tribe of Wisconsin, and the "partially" terminated Ute Indians of Utah."

This recommended investigation is now 36 years over-due and will require a complete forensic accounting of all assets and all revenue collected from the Uinta Valley

and Ouray Reservation since 1951 and perhaps even as early as 1934. Said accounting should be initiated and conducted by the Congress, not by the BIA.

The Task Force concludes that termination was another experiment, however ill-conceived and destructive, with no controls and no provisions for reversal. However, they go on to state; "While the termination Acts were the explicit declaration of Congress, the on-going presence of "non-recognition" remains solely an administrative determination of the Department of the Interior within the Executive Branch."

Regulations for Federal Acknowledgement however, was subsequently implemented that bars tribes like the Uinta Valley Shoshone Indians of Utah from regaining its Federal recognition and Government to Government status under the pretense and pretext of an Act like P.L. 671 (UPTA) of 1954

1986-1996: Ute Indian Tribe v. Utah, cv. 75-C-408 J - Jurisdiction Controversy.

The issue of jurisdiction has spanned a period of more than 20 years through a series of cases initiated between the State of Utah and the "Northern Ute Indian Tribe," Case No. 75-cv-408-J, in the District Court of Utah. The reservation lands and assets partitioned to the 490 Uinta Valley Indians (under the pretext of P.L. 83-671) did not become a primary focus of the jurisdiction disputes until after Hagen, in 1994. *See Hagen v. Utah*, 114 S. Ct. 1580, 128 L. Ed. 2d 222, 62 USLW 3692 (April 18, 1994).

Under the pretext of P.L. 83-671, the State of Utah and local defendants' claim the "*assigned"* reservation trust lands and "undivided" and *"undistributed"* tribal assets of the "Uinta" mixed-bloods "are outside tribal jurisdiction." They contended that because "fee lands distributed to the "former" tribal members under P.L. 83-671 are not within the limits of a reservation, the exterior boundaries having been diminished, they do not fit within any subdivision of 18 U.S.C. §1151, and cannot be considered 'Indian Country' for jurisdictional purposes."

Congress did not intend and did not authorize an open "land-grab" proposition for the State of Utah, under P.L. 120 (65 Stat. 193) August 21, 1951, that only effected the Confederated Band of Ute Indians in Colorado and Utah. P.L. 83-671, initiated from this legislation, was an act to divide the Uinta Valley and Ouray Reservations' tribal land and individually held trust property between two groups of Indians specifically identified and designated *only* as 'Mixed-blood' and 'Full-blood' Indians residing within the boundaries of the Uinta Valley and Ouray Reservations. Identification as Ute Indians and Shoshone Indians is not to be found in the 1954 Ute Partition Act.

The trust land, assets, and proceeds of the Uinta Valley and Ouray Reservations would continue to be under to the joint management, and the tribal jurisdiction of both Mixed-blood and Full-blood Indian organizations, at all times after the division and distribution regardless of any so-called termination proclamation.

The Supreme Court, in *California v. Cabazon Band of Mission Indians*, 480 U.S. 202 (1987), authorized on-reservation gaming, by holding that states lack civil regulatory authority on Indian reservations.

The Indian Gaming Regulatory Act (25 U.S.C. §2701 *et seq.*, (October 17, 1988), defined "Indian lands," as "all lands within the limits of any Indian reservation," regardless of whether the lands are held by the Secretary in trust or owned in fee by the tribe. It includes "all lands title to which is either held in trust by the United States for the benefit of any Indian tribe or individual or held by any Indian tribe or individual subject to restriction by the United States against alienation and over which an Indian tribe exercises governmental power." Congress created three more exceptions; restored lands for restored tribe, settlement of land claim, and initial reservation of a tribe acknowledged under the process in 25 CFR Part 83 – Procedures for Establishing that an American Indian Group Exists as an Indian Tribe.

Depending on the duties contained in statutes, regulations, treaties, or executive orders, with regards to trust lands, the Secretary or the United States may owe certain land management duties to the Indian beneficiaries and may be responsible for managing any revenues generated from the use of the lands.

Solicitor's Opinion M-37023, January 18, 2009: **Restricted fee lands** refers to real property whose title is held in fee by an Indian tribe (or individual Indian), but which cannot be alienated or encumbered without the consent of Congress. This restriction on alienation attaches to certain Indian lands by operation of law - *i.e.*, by the operation of certain treaties, some tribe-specific statutes and, more generally, the Trade and Intercourse Act, also known as the Non-Intercourse Act, enacted by the first Congress in 1790 and remains the law today. Codified at 25 U.S.C. § 177, it provides in pertinent part:

> No purchase, grant lease, or other conveyance of lands, or of any title or claims thereto, from any Indian nation or tribe of Indians, shall be of any validity, in law or equity, unless the same be made by treaty or convention, entered into pursuant to the Constitution….

The Act is invoked today to invalidate a conveyance of tribal land made without the consent of the United States. As trustee of the lands, the United States holds legal title to the lands and they thus cannot be alienated or encumbered without federal approval. [No such approval was ever obtained for land or assets by Indians or the State on the Uinta Valley and Ouray Reservations under the pretext of P.L. 83-671, "*The Ute Partition Act"* (68 Stat. 868) August 27, 1954.

The following is quotes from the Court's Opinion: "In its *en banc* ruling, the Tenth Circuit held that the Uinta Valley Reservation, created by Executive Order in 1861 and confirmed by Act of Congress in 1864, had not been diminished by congressional legislation enacted from 1902 through 1905 opening un-allotted and unreserved lands on the Reservations to entry under the homestead and town-site laws, or by the inclusion of portions of the Reservations among lands withdrawn as national forest lands by Act of

Congress and Presidential Proclamation in 1905. 773 F.2d at 1088-1090; *see also id.* at 1099-1100 (Seymour, Holloway, McKay & Logan, JJ., concurring).

The Tenth Circuit likewise held that the Uncompahgre Reserve had not been diminished by allotment legislation enacted in 1894 and 1897 which restored its un-allotted lands "to public domain" and opened them "for location and entry under all the land laws of the United States; … '"773 F.2d at 1090-93 (quoting the Act of June 7, 1897, Ch. 3, (30 Stat. 62); *see also id.* at 1093-1099 (Seymour, Holloway, McKay & Logan, JJ., concurring).

The Tenth Circuit's *en banc* ruling held that all lands within the original exterior boundary of the Uinta Reservation remain within "Indian Country" under the meaning of 18 U.S.C. §1151 (1994)

After requesting and receiving a brief from the Solicitor General of the United States concerning the issues presented (478 U.S. 1002 (1986)), the United States Supreme Court denied certiorari on December 1, 1986. *Utah v. Ute Indian Tribe,* 479 U.S. 994 (1986) (mem.)

Not content to abide by the Tenth Circuit's judgment in this action, the State of Utah found opportunity to re-litigate the boundary issue in three criminal actions commenced and prosecuted in its name in Utah state courts. These cases, *State of Utah v. Perank, State of Utah v. Coando,* and *State of Utah v. Hagen*, arose in the Uinta Basin and involved neither the Ute Indian Tribe (Federal Corporation), the Northern Ute Tribe, the Affiliated Ute Citizens organization, or any of said enrolled tribal members.

"Nowhere in *Hagen* or *Perank* does either court find that the Uinta Reservation was "disestablished" or "terminated" altogether"… "To the Contrary, Justice Stewart observed in *Perank* that "all parties agree that *the Uinta Reservation, as a political entity, continues to exist after 1905 as to the lands allotted to the Indians and the lands reserved for tribal use,"* 858 P.2d at 934.

MIXED-BLOOD LAND UNDER THE UTE PARTITION ACT:

At one time, "Indian country" status was held to be dependent upon Indian title, and that land ceased to be Indian country "[as} soon as they parted with the title… without any further act of Congress…" *Bates v. Clark,* 95 U.S. 204, 208 (1877); *See, United States v. Celestine,* 215 U.S. 278, 285 (1909), (Indian country and reservation status not synonymous).

Congress abandoned the title-dependent definition of Indian country by enacting 18 U.S.C. §1151(a) in 1948. This court has found no authority suggesting that the title-dependent *Bates v. Clark* definition of "Indian country" persists as a rule of federal law despite the enactment of §1151(a).

"Congress has defined Indian country broadly to include formal and informal reservations, dependent Indian communities, and Indian allotments, whether restricted or held in trust by the United States (see 18 U.S.C. §1151." *Sac and Fox*, 113 S.Ct. at 1991.

Once land has been "'validly set apart for the use of the Indians as such, under the superintendence of the Government,'" it becomes "land within the limits of any Indian reservation" under §1151(a). Having once been "validly set apart" as Reservation land, "all tracts included within it remain a part of the reservation until separated there from by Congress." As noted above, land within such limits remains Indian country "notwithstanding the issuance of any patent," i.e., any change in title or ownership. The same would appear to be true of tribal lands distributed in fee to individual mixed-blood members of the Ute Indian Tribe under the Ute Partition Act. Public Law 671 in 1954 was not intended to be an open land-grab.

A finding that the lands distributed to Mixed-bloods under the Act remain a part of the Uinta Reservation seems wholly consistent with the continuing use of the Tribe's reserved water rights pursuant to *Winters* and it progeny to irrigate the distributed lands. Similarly, this court previously held that the Ute Partition Act did not divest individual mixed-bloods of their personal rights of user or limit the exercise of those rights to lands distributed to Mixed-bloods under the UPTA.

The State and Local Defendants suggest that "the return of UPTA lands to tribal jurisdiction cuts against the purposes of the UPTA. Blanket application of state law to the 490 mixed-blood members of Affiliated Ute Citizens is not so much a statement that they no longer reside within "Indian country" as it is a statement that the Mixed-blood Indians are no longer deemed to be "Indians" for purposes of federal law, including 18 U.S.C. §§ 1151(a) *et seq.* Except as to those matters which are retained in trust status or under federal, tribal, or joint tribal/AUC management under the Act (e.g., oil gas, minerals, water, and hunting and fishing rights, etc.), the Tribe could assert no greater jurisdiction over Mixed-Blood individuals than it can over non-Indians located on fee lands within "Indian country," a result which hardly "cuts against the purposes of the UPTA." (Emphasis added) [Nothing is said about the intent and purpose of the core legislation (P.L. 120 in 1951) to terminate the Confederated Band of Ute Indians of Colorado only.]

Given that the Ute Partition Act expressly contemplates a continuing relationship between the Tribe and its former (mixed-blood) members (and the U. S. Government) as to undivided assets, the defendants' argument founders. The "Indian country" status of the distributed lands thus did not change either upon distribution or upon the later re-acquisition of many of the parcels by the Tribe; these lands remained within the "limits" of the Reservation under §1151(a) at all pertinent times.

The 10th Circuit upheld the Opinion and Order of Judge Jenkins. The Counties of Uintah and Duchesne wanted to appeal this decision but the State would not join them because of Hagen, it did not want to lose what it perceived to have gained in that case.

In 1997, the 10th Circuit defined what constituted tribal lands when it ruled that all lands within the exterior boundaries of the Uinta Valley and Ouray Reservations, except those lands homesteaded under the 1902 – 1905 Acts of Congress, remains "tribal land." *Ute Indian Tribe of the Uinta and Ouray Reservations v. Utah,* 114 F.3d 1513, 1529 (10th Cir. 1997), Cert, denied, 522 U.S. 1107, 118 S. Ct. 1037, 140 L. Ed. 2d. 101 (1998), (Ute V.)

The Northern Ute Tribe and State entered into agreements submitted to Judge Jenkins and never did meet the requirements of the Court. The Business Committee for the "Northern Ute Tribe just issued a resolution rejecting any efforts that might be made pursuant to a new Tribal Law and Order Act that would allow the State of Utah to assume criminal jurisdiction on the Uinta Valley and Ouray Reservations. The Tribe currently asserts exclusive civil and criminal jurisdiction over tribal members on all lands within the exterior boundaries of the Uinta Valley and Ouray Reservation (mixed-bloods not included). Through confusion resulting from various court rulings, such as Hagen, the State of Utah has attempted to assume civil and criminal jurisdiction over certain "checkerboard" areas of the reservations in total ignorance of Utah's Enabling Act prohibiting such checkerboard land on any reservation in Utah.

A Newspaper Article dated December 16, 2010 from Salt Lake City boasts – "A report this week by the Government Accountability Office underscores the vast amount of difficulties prosecutors often encounter with cases involving Native Americans, but does reveal Utah has a good track record when held up to some other states. U.S Attorney for Utah Carlie Christensen in part credits much of that success to the office's "passionate and very skilled" liaison for Native Americans…" "Our office has had a pretty good tradition of being responsive to criminal problems in Indian Country." Christensen said."

1992: Uintah Valley Reservation Water and Water Rights; Ute Indian Rights Settlement

The premise that water rights existed on the Uinta Valley Reservation from the time the reservation was established, October 3, 1861, was tested long before the Central Utah Water Project was conceived though the water users in the Salt Lake Valley, along the Wasatch Front have wanted control of the tribal water since early 1900 with the advent of the Homestead Act.

The Colorado River Storage Project was in full swing when the Act of August 27, 1954 (P.L. 82-671) was initiated by Utah Congressmen. Negotiations for the Central Utah Project (CUP) were also under way as an extension of the Colorado River Project. The CUP was officially approved April 1956, as part of a broader, multi-state water storage project. [The Ute Partition Act (P.L. 83-671)] had been in effect for two years)

When the Colorado River Basin Compact was allocated water, each of the seven states of; Wyoming, Colorado, Utah, New Mexico, Arizona, Nevada, and California received a percentage. Utah was allocated 23 % of the water base and 21.5 % of the revenue in the Basin Fund for all operations financed by the Basin Fund.

Utah made it claim but Congress put conditions on the claims. Utah was told it had until year 2005 to utilize its claims which ultimately became one of several set-backs for Utah that prompted the cleaver scam that has been pulled on the Ute Indian Tribe.

The Colorado River Board initiated the construction and completion of the *Flaming Gorge Dam* in Wyoming that extends into northeastern Utah's Uintah Mountains running east and west on the north end of the Uinta Valley Reservation. The intent of Utah's "Plan" was to construct an aqueduct with a pump strategically placed on the Flaming Gorge Dam that would pump its share of the Colorado River water through the mountains to the Utah side where it would then be channeled across the Uintah Mountains through various storage facilities and a series of high lakes, reservoirs, and canal systems constructed above the Uinta Valley and Ouray Reservations to the Bonneville Unit and on to the Wasatch Front and Salt Lake City, over 300 miles away from its origin.

However, a short time after the initial proposal to construct the Flaming Gorge Aqueduct was complete, it was abandoned. The Water Board said it would be too costly – they couldn't even begin to do it. When the construction of the aqueduct was scrapped, Utah could no longer receive its 23 % of the Colorado River water to which it held claims. Utah has no water -- at least not from the Flaming Gorge Dam of the Colorado River. [The only people known, to be cognizant of this dilemma is the State leadership, local agents of the Bureau of Indian Affairs, The Bureau of Reclamation, State Congressional Representatives and the Utah Water Conservancy District.]

With new proposals in mind, Bureau of Reclamation Officials approached the Ute Tribe Leaders (those now calling them-selves the "Northern Ute Tribe") with the idea that the Tribe could use Dams on the reservation for water storage. The Ute Indian Tribe was promised three water storage Units located within the Bonneville Unit of the CUP. These reservoirs would be constructed for the primary benefit of the Ute Indian Tribe and the White Farmers of the Uinta Basin and were to be completed before the year 2005 when the agreement would elapse. (A condition set by Congress) Unknown to the Tribe, a major deception was afoot in the proposal providing that Utah would replenish any tribal water it took from the three storage Units with its portion of the Colorado River water – it knew it could not access.

An elaborate plan was devised and Utah Representative went to Congress. The Congressmen used this deception and the Ute Indian Tribe to gain appropriations for the dams and water systems on and off the reservation under the Central Utah Project (CUP) described as the Bonneville System.

In addition to the various planned storage facilities, an intricate system of canals and pipelines were part of the CUP Units allegedly allowing the trans-basin diversion of water from its source (Colorado River) to the reservoirs and from there to the locations where the water was to be utilized. It proposed water treatment plants, if the stored water was to be used for culinary purposes as an absolute necessity, and was included in most

Units, as well as power plants generating power with its inevitable flows and possible sources for revenue to doubly utilize the capacity of the water.

By 1965, Utah was having difficulty obtaining the appropriations from Congress needed for further construction of the CUP. The State, in order to encourage Congress to continue to finance construction approached the Ute Indian Tribe (Northern Ute Tribe) again and persuaded them to consent to a Deferral Agreement.

Memorandum: Regional Solicitor's Office, Salt Lake City, Utah (Sept. 9, 1988): "The importance of the Deferral Agreement is twofold; First, the United States and the District recognized the necessity for the Tribe to defer the use of water on 15, 242 acres of Indian lands in order for the Secretary of the Interior to certify to the Congress that an unchallenged water right existed so that construction could proceed on the Bonneville Unit of the CUP; and second, certain and definite covenants in consideration thereof were made to the Tribe, binding upon the United States and the Utah Water Conservancy District."

The Bonneville Unit is the largest Unit of the CUP. The development plan was for ten new reservoirs and to enlarge an existing reservoir. In return for this agreement to defer, the United States and the District promised to build several irrigation storage unites for the Utes' and their neighbors in the Uinta Basin. The storage Units for the Tribe has never been strategically built and neither has any of the three Dams promised and will not be built even though Utah was appropriated Federal Funds to build at least two of the reservoirs that would have specifically benefited the Uinta Valley Reservation and now it wants to develop streams only to be paid for through the Ute Tribal Compensation Funds as the "*Uinta Basin Replacement Project"* that is entirely inadequate to meet the current needs and future needs of the Uinta Basin and Ute Indian Tribe.

All reservoirs that would service and develop the Uinta Valley Reservation, in terms of economic development, employment, industry, small business, and the over-all development of irrigable reservation lands for the benefit of the tribal members, have not been constructed and will not now be constructed. The State has diverted so much of the Uinta Valley Reservation water into channels that feed the Wasatch Front and others that the eco-system at the foot of the Uinta Mountains north of the Reservation has been seriously damaged if not outright destroyed for lack of life sustaining water.

The water and water rights of the Uinta Valley Reservation have never been quantified partly due to failure of special interest parties to live up to their agreements and the failed construction of the three proposed storage units. Therefore, identification, division, and distribution, as proposed in P.L. 83-676 of tribal water and water rights were never possible. The "Uinta Valley Band" of so-called "mixed-bloods" hold 21, 415 shares of GROUP (5) water rights of the Ute Indian Tribe under the "Winters Doctrine" with a priority date of 1861 by virtue of P.L. 83-671 (1954).

Water and water rights and other primary resources of the "Tribe" are treated, by the UPA as separate tribal assets from the land and though water may run appurtenant to

the lands described in GROUP (1), the Uinta Valley Band (mixed-blood's) shares of GROUP (5) water rights were intimately tied to the construction and development of the three water storage units.

Without their construction and absent a "total" termination Act, the water and water rights of the Uinta Valley Band (mixed-blood's) cannot be divided and distributed as proposed in P.L. 83-671 and will continue to be held in federal trust as "Tribal" assets "not susceptible to equitable and practicable distribution."

Utah's Congressional Representatives, Howard Nielson and Wayne Owens, seeking funding for CUP facilities sponsored a Bill which failed to achieve the needed backing in Congress so the following year, a second appropriation bill (H.R. 429) was initiated, pushed by Utah Senator Jake Garn, that would give the State full control over the balance of the "Ute Indian Tribe's "water and water rights in the carefully cloaked provisions of the Bill. This Bill was attached to a larger water bill and passed into law under signature of President George H. Bush. In 1992, it became *Public Law* 102-575, the *"Reclamation Projects Authorization and adjustments Act of 1992."*

This Act contains TITLE V – *"The Ute Indian Rights Settlement."* This section of the Act requires that the "settlement" portion of the Bill be ratified by the members of the "Northern Ute Tribe" (that would be the mixed-blood and full-blood members for legal purposes) by referendum vote and by the residents of the State. (Under the circumstances, said vote would be null and void. Northern Ute Tribe has no interest.)

If this Bill is ratified by the "Ute Indian Tribe" (the federal corporation) as it is written, the Secretary of the Interior, in compliance with provisions in the Bill, will have to transfer tribal water into the possession and control of the State. The Tribe would then be apportioned 44,400 acre-feet of water from the CUP to supply the needs for four million acres of land that constitutes the Uinta Valley and Ouray Reservations and purchase any additional use of its own water from the State at $200.00 an acre-foot as set by the Act … under the pretext of P.L. 83-671 (1954). The "Tribe" (Northern Ute Tribe) has refused to ratify the Bill and accept its provisions and thus it remains today in 2010.

Nothing in the Bill specifically mentions any form of joint State / Tribe management of any existing Units or project construction within tribal jurisdictional boundaries. The Act does however provide that in lieu of the reservoirs to benefit the Ute Indian Tribe, the "Tribe" would accept $514, 000,000 for the improvement of streams and for maintenance of improvement projects as compensation … under the pretext of P.L. 83-671.

None of the $514,000,000 will go directly to the Tribe's members. In return, under the terms of this Act, the "Tribe" shall waive, upon receipt or the moneys, any and all claims relating to its water rights covered under the Agreement of September 20, 1965 (Deferral Agreement) including claims by the tribe that it retains the right to develop lands as set forth in the Ute Indian Compact of 1980 and deferred in such agreement and

that the Uinta Valley Reservation priority date of 1861 be changed to 1992 … under the pretext of P.L. 83-671.

But, State Legislators and Congressional Representatives continue to swear the water now going through the CUP is not Uinta Valley Tribal water but the State's portion of the Colorado River Water … the very water it cannot get to this day, from the Flaming Gorge Dam or the Green River in Utah.

Under the terms of P.L. 83-671 all "Tribal" assets deemed to be *"undividable"* are held in federal trust under joint management mandated between the Affiliated Ute Citizens and the Business Committee including the water and water rights. Section 21 (677v) of the Act provides; "Nothing in this Act shall abrogate any water or water rights of the "Tribe" or its members." Section 13(3) provides for the creation of a corporation for handling of water and water rights pursuant to an agreed upon "plan" submitted by the "Tribe" after the proposed termination of the entire Ute Indian Tribe in 1964.

Neither the Confederated Band of Ute Indians (Northern Ute Tribe) or the "Ute Indian Tribe" (the federally chartered Corporation (1937) or the Uinta Band of Shoshone Indians by specific name) was ever terminated from federal supervision or federal recognition pursuant to the UPA or by operation of Public Law 120 (65 Stat. 193) August 21, 1951; *"The Southern Ute Rehabilitation Planning Act."*

But, the Uinta Valley Shoshone Bands of Utah Indians for whom the Uinta Valley Reservation was created by Executive Order 38-1 in 1861 and confirmed by Congress in 1864 (13 Stat. 63) became the victims of the Ute Termination Legislation in 1951 by "bootstrapping" them and their tribal assets to said legislation and labeling them as "Mixed-Blood Ute'" and purportedly terminating them from federal supervision and federal recognition by Secretarial Proclamation in 1961. Without the Uinta Valley Bands of Utah Indians, the "Northern Ute Tribe" cannot sustain a valid claim to any of the land or resources of the Uinta Valley and Ouray Reservations and for the same or similar reasons the state incorporation, Ute Distribution Corporation cannot sustain a valid claim. It is not a tribe a member of a tribe, or a tribal entity.

1994: The Technical Correction Act of 1994, P.L. 103-263.

Congress enacted Public Law 103-263, *The Technical Correction Act of 1994* that included an amendment to the IRA in its Section 5(b). This law amended § 16 of the IRA to prohibit any Federal agency from promulgating or implementing any regulation or administrative decision that would classify, enhance, or diminish the privileges and immunities available to Indian Tribes due to their status as Indian Tribes. The law also nullified any such regulation or decision already in existence or in effect on the date of enactment of P.L. 103-263.

This Act should have a repealing effect on the 1954 Secretarial order – P.L. 83-671 as it relates to the "Uinta Valley Band of Utah Indians" and all subsequent amendments thereto, as well on the 1961 termination proclamation issued by the Secretary to terminate

the so-called "Mixed-blood Ute'" from federal supervision pursuant to the UPA an act that was initiated through the "Confederated Band of Ute Indians" termination legislation in 1951 called *"The Southern Ute Rehabilitation Planning Act"* (65 Stat. 193). The group of Indians labeled as "Mixed-blood Ute'" in the Ute Partition Act (UPA) are in fact the Uinta Valley Shoshone Bands of Utah Indians … that are not now and have never been… "Utes" and are not now and have never been … a part of the Confederated Band of "Ute" Indians of Colorado and Utah.

1996: Memo - U. S. Solicitor, Regional Office, Salt Lake City, Utah.

In 1996, the Board of Directors of Affiliated Ute Citizens, under mandate of its membership, dissolved the Ute Distribution Corporation according to the procedures of Utah State Law. This legal action was nullified by the State Attorney General's Office in an unprecedented act. He arbitrarily reinstated the UDC two days later without any kind of due process hearing. Further, the officers of Affiliated Ute Citizens were summoned by the Utah Attorney General and threatened with criminal prosecution if they interfered in the business of the Ute Distribution Corporation in the future. A "gag order" was subsequently signed by a Utah Judge and served on the AUC Officers.

During this same time period, the Acting Field Solicitor, William R. McConkie, Salt Lake City Field Office, issued a Memorandum dated May 17, 1996 to the Fish and Wildlife Management and Assistance Office where he refers to the trust assets of the Ute Indian Tribe "not susceptible to equitable and practicable distribution" wherein he states; "The Ute Partition Act did not intend that all tribal assets be divided as between the Full-blood and Mixed-blood groups." The United States Supreme Court affirmed the Tenth Circuit and ruled: "There is, and can be no dispute that the United States holds title to the land, including the mineral interests, that composes the Uinta and Ouray Reservations." He continues; "The Supreme Court ruled: "the termination proclamation, contemplated by § 23 of the Act, was issued and published by the Secretary effective at midnight August 27, 1961 (26 Fed. Reg. 8042) this of course, did not purport to terminate the trust status of the "undivided assets." (Emphasis added)

Mr. McConkie then declares in said memo: "Net proceeds received from non-divided assets held in trust by the United States on behalf of the Full-bloods of the Tribe are covered into a Ute Tribe Account in the United State Treasury. Until such funds are delivered to the Tribe in a budget approved by the Secretary they are trust funds." See 25 U.S.C. §§ 671 -72 and section cited therein.

"Likewise, net proceeds received from non-divided assets held in trust by the United States on behalf of the mixed-bloods are covered into a UDC Account in the United States Treasury, and only lose their trust nature when they are thereafter delivered to the UDC."

It is a well-established principle of equity that a third party who pays money to a fiduciary for the benefit of the beneficiary, with knowledge that the fiduciary intends to misappropriate the money or otherwise be false in his trust, is a participant in the breach

of trust and liable therefore to the beneficiary. See Bogert, Trust and Trustees (1935), Vol. 4, §§ 901, 955; Scott Trusts (1939), Vol. 3, § 321.1; American Law Institute, Restatement of Law of Trusts (1935, § 321.

Mr. McConkie's knowledge of the embezzlement of commonly held Tribal Capital Assets collected from the Uinta Valley and Ouray Reservations at the Treasury level is culpable conduct. UDC purports to be an Indian Tribe and who would know the difference when it has an Account in the U.S. Treasury that superficially makes it appear to be a Tribe and no one handling the Accounts in the Minerals Management Office or the Office of the Special Trustee (OST) will investigate the allegation to, at the very least verify Ute Distribution Corporation's legitimacy. It is indeed a state incorporation…not a Tribe, a member of a Tribe or a Tribal entity of the Uinta and Ouray Reservations in Utah.

There needs to be an internal investigation into the question of; "How Ute Distribution Corporation became a beneficiary of Indian Trust Funds" from the Uinta Valley and Ouray Reservations. The corporation was created by John Boyden, tribal attorney, in 1958 under color of Utah law, as understood by Congress, to serve as a conduit only; to "manage" the distributions of tribal trust funds passing through it to the 490 Indian beneficiaries that are identified and listed on the Final Rolls of the Northern Ute Indian Tribe in 1956, as published in the Federal Register.

The "trust funds" would remain "trust funds" by operation of law in perpetuity regardless of any so-called termination proclamation issued in 1961 that purportedly terminated 490 individuals of the federally chartered corporation, D/B/A "Ute Indian Tribe," a federally recognized tribe.

AUC is an unincorporated Indian Tribe of the Uinta Valley and Ouray Reservations. It shares a tax-exempt status with all other federally recognized tribes whose tribal assets and proceeds are under the management of the Secretary of the Interior. It is not an ordinary non-profit organization just because it is tax-exempt. It has never been dissolved so it could not have transferred or conveyed any of its tribal trust property or trust proceeds to any other entity (especially a state incorporation) without the approval of Congress and neither could the Secretary of the Interior arbitrarily do so under the terms of P.L. 671. Therefore, how did UDC get to be a beneficiary of Indian property?

2010: Today. The Business Committee representing the Utah members of the Confederated Band of Ute Indians (a.k.a. the Northern Ute Tribe) has announced that it intends to put a proposal before President Obama after the first of the year seeking to have the Ouray Reserve given "back" to the Uncompahgre Utes. The Ouray Reserve was never ratified by Congress and is the aboriginal land claimed by the *"Uinta"* Band of Utah Indians of the Uinta Valley and Ouray Reservations. The Uncompahgre Utes and White Rivers were only to receive allotments in Colorado under the 1880 Agreement that removed them from Colorado to Utah. If they want to trade their allotted land in Utah for land in Colorado and fulfill the 1880 agreement, it would be a legitimate trade even today

Conclusion

Despite the termination of Federal Services due the Affiliated members as assets "not susceptible to equitable and practicable distribution" under the terms of P.L. 83-671, the full-blood and mixed-blood members of any so-called Tribe of Utah/Colorado Indians failed, under the intent of P.L. 83-671, to indicate in 1964 – at the end of a decade-long 'preparation period' toward termination, that they were ready for termination pursuant to said Act. The UPTA for all intents and purposes only amounts to a *"paper"* division of assets. The Federal Corporation, d/b/a the "Ute Indian Tribe" was never disbanded as a tribe or dissolved as a federal corporation. It was however, abandoned by the Ute allottees except during times when the cover-up might be exposed by litigation.

By 1968, Congress passed a resolution repudiating the termination policy. This however, did not stop termination activities from occurring until the early 1970's when Congress, under the Nixon Administration, repealed House Concurrent Resolution 108.

Because of the failed, insidious and misconstrued Confederated Band of Ute Indian termination legislation in 1951, the charter members of the IRA Corporation, d/b/a the "Ute Indian Tribe" of the Uinta & Ouray Reservations were never congressionally terminated from Federal supervision and the tribal and individual assets were never legitimately terminated from Federal trust, therefore, 'title' from the United States could never be distributed to the personal possession and ownership of the individual beneficiaries regardless of any so-called termination proclamation.

The Ute Distribution Corporation does not represent the tribal interests of the 490 "mixed-bloods," the Corporation only represents its stockholders and as a conduit distributes 27.16186 % of the Capital Proceeds collected from the Uinta Valley and Ouray Reservations to its stock holders that are 70 % white people and includes the Confederated Band of Ute Indians (full-bloods) who hold 20 % of the UDC stock shares, leaving the final 10 % to the remaining AUC members of the original 490 individual mixed-blood beneficiaries and a few descendants under the pretext of P.L. 671, 83rd Congress (68 Stat. 868), August 27, 1954, *"The Ute Partition and Termination Act."*

The time has come to step forward and officially address all rights, title, and interests held by the Uinta Valley Shoshone Bands of Utah Indians under Executive Order 38-1 of 1861 on the Uinta Valley and Ouray Reservations (that are the same members as the Affiliated Ute Citizens tribal organization). It is time to correct the record and clarify anyone's misinformation as to the factual relationship between the Uinta Valley Shoshone Bands of Utah Indians and the termination legislation issued in 1951 affecting only the Confederated Band of Ute Indians of Colorado/Utah.

Congress enacted P.L. 103-263, The Technical Corrections Act of 1994 that included an amendment to the IRA in its Section 5(b). This law amended § 16 of the IRA to prohibit any Federal agency from promulgating or implementing any regulation or administrative decision that would classify, enhance, or diminish the privileges and

immunities available to Indian Tribes due to their status as Indian Tribes. The law also nullified any such regulation or decision already in existence or in effect on the date of enactment of P.L. 103-263. This Act should have had an effect on the 1954 Secretarial Order – P.L. 83-671 and all subsequent amendments thereto, and on the 1961 Termination Proclamation that was intended to terminate the so-called "mixed-blood Ute'" that are in fact the Uinta Valley Shoshone Bands of Utah Indians…that are <u>not</u> now and have never been ... "Ute'."

The BIA has consistently declared the (mixed-blood) members of the Affiliated Ute Citizens tribal organization of the Uinta and Ouray Reservations in Utah to no longer be federally recognized. Purporting, therefore, the United States Government holds no responsibility toward them, not even to investigate their complaints of impropriety and misconduct applied through the BIA's administration, while at the same time continuing to hold their *"undivided"* tribal assets in trust and the trust funds there from in a state of misappropriation under the pretext of P.L. 83-671.

The Secretary of the Interior and Bureau of Indian Affairs (BIA) employees have played an active role in this facade from the very beginning in 1950 with the Confederated Band of Ute Indians (seeking a land base and assets); the State of Utah (seeking jurisdiction in Indian Country), and Utah attorneys representing the Ute Distribution Corporation, a state incorporation (seeking self-enrichment) along with 70 % non-Indian Mormon stock holders to the extreme detriment and economic loss to the Uinta Valley Shoshone Bands of Utah Indians. The Executive Branch of the United States Government is responsible to see that the conditions just described in this text never happens, but it has … now how to correct it without creating a bigger mess.

Dora Van, President and Tribal Chairman
Affiliated Ute Citizens Tribal Organization
Tribal Chairman, for the Uinta Valley Shoshone Bands of Utah Indians
12-01-10